

Historic, archived document

Do not assume content reflects current scientific knowledge, policies, or practices.

Rec'd 5/28/44

UNITED STATES DEPARTMENT OF AGRICULTURE
Bureau of Agricultural Economics



STATE AND FEDERAL LEGISLATION AND DECISIONS
RELATING TO OLEOMARGARINE

Brief Summary

Prepared by Anne Dewees,
under the direction of
O. C. Stine, In Charge
Division of Statistical and Historical Research

Washington, D.C.
June 1936

CONTENTS

	Page
Definition of oleomargarine in Act of 1930	IV
State and Federal legislation now in force	2
State excise taxes on all oleomargarine	2
Total number of retail dealers and oleomargarine production	3-4
Production of oleomargarine, number of manufacturers and dealers, and revenue from oleomargarine, by States, 1935	5-7
State excise taxes on oleomargarine containing other than specified domestic materials	8
State license fees	8
General State laws	8
Color	8
Use	8
Specific labeling	9
Notifying patrons	9
Relation of Federal and State taxes	9
Federal special taxes, stamp taxes, and regulations	9
Oleomargarine Act	9
Labeling and color regulations	10
Production regulations	10
Prohibition in Federal institutions	11
Tariff rates and excise taxes	11
Some results of State legislation enacted 1929-35	11-14
Historical background	15-26
The beginnings of State and Federal legislation, 1877-85	15-16
The Federal Oleomargarine Act and amendment and State regulative acts, 1886-1902	16-18
Violations, enforcement problems, court decisions, and orders, 1903-22	18-20
Revival and defeat of prohibitory State legislation; Federal Trade Commission orders, 1923-30	20-22
"Cease and desist" orders	20
Control of oleomargarine industry by State taxation beginning 1929	22-24
Opposition to control program	24
Appendix	27-41
State excise taxes on oleomargarine made from either domestic or imported materials	27
State excise taxes on oleomargarine containing other than specified domestic materials	28
Annual State license fees on "occupations"	29-30
General State regulations	31
Federal special taxes and stamp taxes on oleomargarine	32
Tariff rates, excise, and compensatory taxes on oleomargarine and ingredients used in manufacture	33
Reference citations	33-41
Citations to State laws on oleomargarine excise taxes	34-37
Citations to Federal legislation and rulings on oleomargarine and ingredients	38-39
Abstracts, summaries, and surveys of oleomargarine legislation chronologically arranged	40-41
Index	42-47

Definition of oleomargarine in Act of 1930

Section 2 of the Act entitled "An Act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine", approved August 2, 1886, as amended, is amended to read as follows:

"Sec. 2. For the purposes of this Act certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as 'oleomargarine', namely: All substances heretofore known as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all mixtures and compounds of oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef fat, suet, lard, lard oil, fish oil or fish fat, vegetable oil, annatto, and other coloring matter, intestinal fat, and offal fat; -- if (1) made in imitation or semblance of butter, or (2) calculated or intended to be sold as butter or for butter, or (3) churned, emulsified, or mixed in cream, milk, water, or other liquid, and containing moisture in excess of 1 percentum or common salt. This section shall not apply to puff-pastry shortening not churned or emulsified in milk or cream, and having a melting point of one hundred and eighteen degrees Fahrenheit or more, nor to any of the following containing condiments and spices: salad dressings, mayonnaise dressings, or mayonnaise products nor to liquid emulsion, pharmaceutical preparations, oil meals, liquid preservatives, illuminating oils, cleansing compounds, or flavoring compounds."

This Act shall take effect twelve months after the date of its enactment. (U. S. Statutes at large, 71st Cong., 1929-31, vol. 46, pt. 1, p. 1022, chap. 882, July 10, 1930, Public No. 540.)

Interpretative Regulation

Regulations No. 9, 1925 (rev. April 1936) of the Bureau of Internal Revenue refer in Article 10 to the above definition and state that "The use of other materials or ingredients than those enumerated in the statute is not prohibited, provided they are not deleterious. . . The percentage of enumerated materials in the finished product makes no difference".

1/

STATE AND FEDERAL LEGISLATION AND DECISIONS RELATING TO OLEOMARGARINE

In considering Federal legislation and the effect of the Federal acts relating to oleomargarine, it is important to have in view also the existing State regulations. In May 1936 every State except Arizona had some kind of oleomargarine legislation. The laws of the several States in addition to the taxes and regulations imposed by the Federal Government have a significant bearing upon the production and consumption of oleomargarine. In some States regulations are so moderate as to have little effect, whereas in others taxes are practically prohibitive. The production and consumption of oleomargarine per capita in the United States have never been large, but in recent years they probably would have been considerably larger than they have been if the States were not imposing high taxes and severe regulations in addition to those imposed by the Federal Government.

Federal legislation with reference to oleomargarine has been aimed primarily at preventing its sale as butter and to accomplish this has imposed differential taxes and regulations against the coloring of oleomargarine and, more recently, the manufacture of yellow oleomargarine. The Federal "special taxes" upon the manufacture and sale of uncolored oleomargarine have been moderate and the stamp tax only nominal - 1/4 cent a pound. In spite of the higher dealer taxes and the 10 cents per-pound stamp taxes, a few wholesalers and retailers continue to pay the taxes for the privilege of selling the yellow oleomargarine. Additional license fees, excise taxes, and restrictions imposed by the several States affect the uncolored as well as the colored oleomargarine. Some States absolutely prohibit the sale of oleomargarine of any shade of yellow, and several States tax all oleomargarine 10 cents per pound or more in addition to the imposing of annual license fees.

The significance of the additional State taxes and regulations may be indicated by noting the change in the total number of retail dealers in the various States between 1928, when there were no State excise taxes, and the year ended June 30, 1935 after such taxes had become effective in 18 States. Taxes of 10 to 15 cents per pound on all oleomargarine greatly reduced its sale in Washington, North Dakota, and Wisconsin, as compared with Indiana and West Virginia, States imposing moderate regulations and no taxes upon the use of oleomargarine. The number of retail dealers in Washington, North Dakota, and Wisconsin has been reduced from a total of nearly 10,000 in 1928 to only 23 in 1935. Apparently retail dealers were absolutely eliminated in the State of Washington in 1935. The number of dealers was reduced to zero in the States of Montana, Idaho, and North Dakota in 1934, but there was some return in 1935. In Wisconsin, rigid restrictions have not completely eliminated dealers, but have reduced the number from over 5,000 in 1928 to 22 in 1935.

1/ This survey was made by Anne Dewees, Associate Agricultural Economist, as part of the general survey of the Fats and Oils Situation under the direction of O. C. Stine, in Charge, Division of Statistical and Historical Research.

The effect of the higher taxes imposed by Wisconsin in June 1935, is still to be registered. In contrast, Indiana with no taxes reported 3,000 dealers per million population in 1928, compared with 2,700 in 1935, and West Virginia also with no taxes, increased the number of dealers from 1,200 per million population in 1928 to over 2,000 in 1935. In 25 States imposing no excise taxes effective during this period there were 900 to 2,700 dealers per million population in 1935. About three-fourths of these States reported some increase in the number of licensed dealers per million population and the rest reported a moderate decrease. On the middle ground it is observed that a tax of 5 cents per pound on uncolored oleomargarine has been accompanied by a reduction of more than 50 percent in the number of retail dealers in three States. Taxes ranging from 10 to 15 cents per pound on oleomargarine containing imported ingredients practically eliminated the sale of such oleomargarine as shown by the State tax returns and may have reduced to some extent the total sales of oleomargarine.

Because of the significance of State legislation, a survey was undertaken to show the tendencies in the legislation passed during the last 5 years, together with the legislation previously enacted that is still in force, and the historical background of Federal and State oleomargarine legislation from its beginnings in this country.

STATE AND FEDERAL LEGISLATION NOW IN FORCE

Within the 5-year period 1931-35, 28 States have enacted oleomargarine laws levying excise taxes, imposing license fees, or both; the Federal Oleo-margarine Act was amended in 1931 to clarify the color provision by specifically applying the 10-cents-per-pound tax to all yellow oleomargarine whether artificially or naturally colored; in 1934 excise taxes were placed on the first domestic processing of certain imported oils usually entering into the manufacture of oleomargarine, and a compensatory tax was placed on imported oleomargarine in 1935.

The State laws taxing oleomargarine fall into two main groups: (1) Those taxing oleomargarine regardless of the materials used in manufacture, and (2) those taxing oleomargarine containing other than specified domestic materials. The first group may be subdivided into those taxing all oleomargarine the same, and those placing the higher rate on colored goods.

State excise taxes on all oleomargarine

Eight States now (June 1936) impose excise taxes on all oleomargarine as follows: Washington and Wisconsin impose taxes of 15 cents per pound on all oleomargarine sold or offered for sale in the States; North Dakota, South Dakota, and Tennessee place the tax rate at 10 cents per pound; Idaho and Utah impose taxes of 5 cents on uncolored oleomargarine and 10 cents on colored oleomargarine; and Iowa imposes a 5-cent tax on all oleomargarine. (Table 3, p. 27.) Oklahoma and Kentucky have also enacted laws taxing all oleomargarine 10 cents per pound. Oklahoma's law is without enforcement provisions and no stamps are provided. It seems, however, to eliminate almost all sales. (pp. 13, 26-27.) Kentucky's law has been invalidated by court decision. (pp. 24-25, 27.)

Table 1.-Total number of retail dealers licensed to sell uncolored oleomargarine, number per million population, and oleomargarine production, 1928, 1934, 1935

State	Retail dealers		Retail dealers per million population		Production of oleomargarine	
	1928	1934	1928	1934	1928	1934
	Number	Number	Number	Number	1,000 lb.	1,000 lb.
Ind.	10,306	7,793	8,960	3,235	2,359	2,712
Kans.	7,278	3,520	4,928	3,909	1,848	2,587
Ohio	16,298	13,312	15,541	2,509	1,947	2,273
Colo.	2,362	1,307	2,221	2,317	1,238	2,103
Mich.	10,516	8,860	10,523	2,265	1,740	2,066
W. Va.	2,094	3,210	3,615	1,244	1,797	2,024
Oreg.	2,530	1,738	2,003	2,736	1,756	2,023
Me.	1,435	802	1,580	1,811	998	1,965
Ill.	15,436	11,913	15,380	2,076	1,513	1,953
Nebr.	3,410	1,680	2,630	2,500	1,204	1,885
Mo.	6,986	4,899	6,907	1,945	1,332	1,878
Fla.	2,288	1,665	2,918	1,655	1,057	1,853
D. C.	443	398	918	926	801	1,847
Md.	1,958	2,487	3,043	1,223	1,488	1,821
Del.	341	170	423	1,446	702	1,748
N. H.	699	178	802	1,515	379	1,706
Ariz.	531	532	717	1,270	1,164	1,569
Calif.	12,236	9,260	9,573	2,312	1,504	1,555
R. I.	604	158	1,059	897	224	1,502
Iowa	7,400	984	3,634	3,009	396	1,462
N. J.	5,817	1,916	5,989	1,495	453	1,416
Va.	1,824	2,244	3,270	759	917	1,337
Wyo.	275	105	298	1,249	453	1,284
Mass.	4,629	1,327	4,982	1,107	306	1,149
Ky.	1,954	2,336	2,972	757	879	1,119
N. Y.	13,986	5,506	13,565	1,145	422	1,039
Minn.	5,416	1,572	2,480	2,138	604	953
Nev.	63	69	86	710	734	915
Tex.	2,341	2,155	5,453	416	355	898
N. Mex.	194	226	387	470	517	886

Table 1.-Total number of retail dealers licensed to sell uncolored oleomargarine, number per million population, and oleomargarine production, 1928, 1934, 1935 - Contd.

State	Retail dealers		Retail dealers per million population		Production of oleomargarine			
	1928	1934	1935	1928	1935	1928	1934	1935
	Number	Number	Number	Number	Number	1,000 lb.	1,000 lb.	1,000 lb.
Ga.	1,601	1,879	2,549	551	645	876		
Ia.	1,602	1,415	1,867	782	653	862		
S. C.	432	761	1,436	250	435	821		
Conn.	899	357	1,356	573	216	819		
Vt.	196	94	276	547	260	765		
Ala.	1,389	1,408	2,038	535	520	752		
Ark.	1,432	1,242	1,346	780	662	717		
N. C.	821	1,948	2,269	268	590	687		
Pa.	4,177	3,260	3,945	441	332	401		
Utah	733	17	193	1,472	33	371		
Miss.	302	200	468	153	97	228		
Tenn.	2,363	241	473	920	90	177		
S. Dak.	1,523	0	64	2,229	0	91		
Okla.	3,498	83	197	1,499	34	80		
Mont.	5	0	18	9	0	33		
Idaho	699	0	6	1,579	0	13		
Wis.	5,007	3	22	1,735	1	7		
N. Dak.	764	0	1	1,132	0	1		
Wash.	3,986	2	0	2,608	1	0		
U. S.						791		
Total	173,079	104,834	155,381	1,444	829	1,218	294,699	243,187
								353,821

Compiled as follows:

Number of retail dealers of uncolored oleomargarine, years ended June 30, from Reports of the Commissioner of Internal Revenue.

Population from Bureau of Census, July 1, 1928 used for year ended June 30, 1928; population July 1, 1934 used for years ended June 30, 1934 and 1935.

Order based on magnitude of number of retail stores per million population in 1935.

The average number of people served by each retail dealer may be used as a general indication of consumption.

Table 2.-Production of oleomargarine, number of oleomargarine manufacturers and dealers, and revenue from oleomargarine paid to the Bureau of Internal Revenue, by States, year ended June 30, 1935

State	Production 1/	Number of "special tax" payers and annual tax rate 1/		Revenue paid to the Bureau of Internal Revenue 1/	
		Dealers		Special	Stamp tax (i.e., tax on manufacture:
		Manu- factur- ers,	Whole- sale,	taxes (i.e., fees paid by manu- facturers and dealers) 2/	or import or importer)
		1,000 lb.	Number	Number	Dollars
Ill.	143,301	11	15,380	120	117,228
Ohio	61,852	5	15,541	135	113,895
Calif.	38,540	9	9,573	51	69,715
Mich.	13,625	1	10,523	98	30,256
Ind.	22,407	2	8,960	73	68,729
N.J.	28,042	3	5,989	27	35,563
Kans.	25,454	4	4,928	27	27,868
Md.	5,775	1	3,043	20	19,343
Mo.	8,538	2	6,907	42	43,555
Tex.	3,072	2	5,453	57	32,028
Minn.	731	1	2,480	29	16,145
Oreg.	1,114	1	2,003	18	15,225
Mass.			4,982	25	24,532
Nebr.			2,630	18	18,526
Colo.	1,246	1	2,221	13	12,933
R.I.	126	2	1,059	7	6,126
					3,373
					6,454
					328

Table 2.-Production of oleomargarine, number of oleomargarine manufacturers and dealers, and revenue from oleomargarine paid to the Bureau of Internal Revenue, by States, year ended June 30, 1935 - Cont'd

State	Production 1/	Number of "special tax" payers		Revenue paid to the Bureau of Internal Revenue 1/	
		Manu- factur- ers,		Special	
		Dealers	Yellow	Uncolored	taxes (i.e., fees paid by manufacturers : and dealers)
N.Y.	8	13,565	121	77,243	22
W. Va.	3	3,615	47	32,008	1
Pa.	18	3,945	24	28,066	28,066
Va.	3,270	3,269	28	23,180	23,180
N. C.	2	2,549	33	19,126	19,126
Ga.	1	2,038	29	15,754	15,754
Ala.	1	2,918	36	19,394	19,394
Fla.	1	2,972	16	19,020	19,020
Ky.	1	1,867	20	11,326	11,326
La.	1	1,346	10	7,946	7,946
Ark.	1	1,436	16	8,564	8,564
S. C.	1	717	11	5,032	5,032
Ariz.	1	1,580	16	12,431	12,431
Me.	22	918	6	6,389	6,389
D. C.	1	1,356	6	9,571	9,571
Conn.	2	473	3	2,675	2,675
Tenn.	2	425	6	3,216	3,216
Del.	2	468	7	2,973	2,977
Miss.	2	387	1	2,030	2,080
N. Mex.	1	276	2	2,150	2,150
Vt.	1	802	1	4,571	4,571
N. H.	2	86	2	926	926

Footnotes on p. 7.

Continued-

Table 2.-Production of oleomargarine, number of oleomargarine manufacturers and dealers, and revenue from oleomargarine paid to the Bureau of Internal Revenue, by States, year ended

June 30, 1935 - Cont'd

State	Number of "special tax" payers and annual tax rate 1/			Revenue paid to the Bureau of Internal Revenue 1/		
	Dealers	Yellow	Uncolored	Special taxes (i.e., taxes paid by manufacturers or importers)	Stamp tax (i.e., tax on manufacture: or import, paid by: manufacturers and dealers)	Total
Iowa	3,634	34	18,892			18,892
Wyo.	298	2	1,614			1,614
Wis.	22	94	94			94
Mash.		1	271			271
Utah	193	3	1,327	146		417
S. Dak.	64	1	317			317
Oklahoma	197	2	980			980
N. Dak.		1				3
Mont.	18					66
Idaho	6					19

Total: 353,821 45 160 4 4/155,415 1,2

1/ Compiled from report of the Commissioner of Internal Revenue.
2/ "Special taxes" are payable upon beginning business pro-rated according to portion of year involved.

and June 30, annually thereafter; annual rates, manufacturers \$600; dealers in yellow, wholesale \$480.

3/ Rate per pound, on manufacture (except that which is exported or used in Federal institutions is free),
incolored 1 cent, yellow 10 cents, orange 15 cents, brown 20 cents.

uncolored $\frac{1}{4}$ cent, yellow 10 cents, on imported 13 cents. Receipts shown from manufacture for State reporting no manufacturers and no production may be accounted for by the fact that for purposes of taxation a dealer who mixes color with uncolored oleomargarine pays the manufacturer's tax.

4/ Includes 10 dealers in Alaska, and 24 in Hawaii.
5/ Includes \$105 (24 retail dealers at \$6 each) for Hawaii.

State excise taxes on oleomargarine containing other than specified domestic materials

Sixteen States now have legislation imposing taxes of from 10 to 15 cents per pound on oleomargarine other than that containing specified domestic materials or stated proportions of animal fats and domestic materials. In this group are eight Southern States. Seven of these - North Carolina, South Carolina, Georgia, Florida, Alabama, Arkansas and Texas - have a tax rate of 10 cents per pound, and one - Louisiana - a rate of 12 cents per pound. There is one New England State, Maine, with a tax of 10 cents per pound. Four Mid-western States - Minnesota, Kansas, Colorado and Wyoming - have a 10-cent tax and one; Nebraska, has a 15-cent rate. California's law is held in abeyance pending referendum vote and the New Mexico law is inactive. (pp. 26, 28.)

Minnesota and Nebraska base their taxes on the percentage of domestic oils used, whereas Wyoming places the tax on vegetable oleomargarine containing less than 20 percent of any animal fat. In Kansas and Colorado, the law places a tax on oleomargarine containing any fat or oil other than oleo oil, oleo stock, oleostearine, neutral lard, corn oil, cottonseed oil, peanut oil, or milk fat. All the other States in this group but California add soybean oil to the exceptions. California adds sheep fat, Florida and New Mexico add beef and sheep fats, and Georgia adds pecan oil to the exceptions. (Table 4, p. 28.)

Of these excise tax laws in 22 States, 1 - Utah's - was imposed in May 1929, 10 were imposed between March 1931 and April 1934, and 11 since April 1934.

State license fees

Eighteen States require manufacturers, wholesalers, retailers, restaurants, hotels, and boarding houses making, vending, or serving oleomargarine to operate under licenses. In Pennsylvania, North Carolina, Wisconsin, and Montana the maximum fee is \$1,000, in Idaho the maximum fee is \$200, in Connecticut, Mississippi, Nebraska, and California the maximum fee is \$100, in Colorado and Vermont, \$25 is the upper limit, in Florida \$20, and in Kentucky, Tennessee, Oklahoma, Minnesota, North Dakota and Utah, the maximum ranges from \$1 to \$10. In addition to the above mentioned laws Louisiana has a law that requires every wholesale dealer in oleomargarine (and other specified commodities) be taxed 1-1/4 percent of the gross receipts, the revenue to be used in defraying the expenses of tick eradication work. Eleven of the eighteen laws were enacted during 1930-33, and seven prior to 1930. (Table 5, p. 29.)

General State laws

Color: Thirty-one States have laws or regulations prohibiting the sale of yellow oleomargarine. (p.31.)

Use: In 20 States the use of oleomargarine in charitable, penal, or other institutions (sometimes excepting penal institutions) receiving assistance from the State is prohibited. (p.31.)

Specific labeling: The majority of State laws require that oleomargarine shall be labeled in a way to inform the purchaser that the substance is not butter, often stipulating that the word "oleomargarine" shall appear in letters of a specified size in black ink on a white ground, and some require that all dairy terms or pictures shall be omitted from packages in which oleomargarine is packed.

Notifying patrons: Many States require that hotels, restaurants, and boarding houses notify patrons if and when oleomargarine is served. Arkansas and Missouri require that dishes be labeled.

Relation of Federal and State taxes

Article 70 of the Bureau of Internal Revenue Regulations on oleomargarine taxes (No. 9, revised April 1936) gives the following comment on the relation of State and Federal laws:

"Payment of special tax under Federal law confers no right or privilege to conduct business contrary to State law. The holder of a special-tax stamp issued by the Federal Government may still be punishable under a State law prohibiting or regulating the manufacture or sale of oleomargarine. On the other hand, compliance with State law affords no immunity under Federal law. Persons who engage in business in violation of the law of a State are, nevertheless, required to pay special tax as imposed under the internal-revenue laws of the United States."

Federal special taxes, stamp taxes, and regulations

The Oleomargarine Act passed in 1886 has been six times amended. (p. 38.) As it now stands it provides for collection by the Bureau of Internal Revenue of: (1) Special taxes on occupations, upon entering business and annually on July 1 thereafter, as follows - from manufacturers \$600; wholesale dealers who handle yellow oleomargarine \$480, and who handle uncolored oleomargarine \$200; retail dealers who handle yellow oleomargarine \$48, and who handle uncolored oleomargarine \$6. (2) Stamp taxes (a) on domestic oleomargarine, paid by the manufacturer of yellow oleomargarine, 10 cents per pound, of uncolored oleomargarine, 1/4 cent per pound; (b) on imported oleomargarine, paid by the importer or owner, 15 cents per pound.

This Act also defines butter, oleomargarine, and "yellow in color", and makes oleomargarine that is yellow in color due to the use of naturally yellow ingredients taxable at the same rate as the artificially colored product; makes regulations concerning manufacture, sale, packaging, import, and export; prohibits false and deceptive labels; provides for imposing fines for defrauding or attempting to defraud or for failure to do any of the things required by law; and charges the Bureau of Internal Revenue with enforcing the law, collecting the taxes and making needful regulations for carrying into effect the Act.

Labeling and color regulations: In accordance with authority embodied in the Oleomargarine Act of 1886 the Bureau of Internal Revenue requires that Every package of oleomargarine must be marked with the word "oleomargarine" in letters three-quarters of an inch high. 2/

The Act does not specifically prohibit the packing of small quantities of coloring matter in manufacturers' original packages . . . 3/. Regulations permit the printing of instructions for coloring oleomargarine on cartons or wrappers, provided there is included a statement as to who may color the product without incurring liability under the law. The following may color oleomargarine yellow without incurring a license liability of \$600 per annum as an oleomargarine manufacturer and a tax liability of 10 cents per pound:2/

A private individual for use of his own family, household servants, and non-paying guests.

All institutions under complete control of the United States, a State or political subdivision thereof for use of inmates or employees of such institutions.

Cooperative clubs or fraternities for use of members where boarding expenses of members are pro-rated and meals are not served to other persons for compensation.

Production regulations: The Meat Inspection Service of the United States Department of Agriculture supervises the manufacture of oleomargarine containing any animal fat. M.I.S. regulations 4/ state that "oleomargarine containing any animal fat shall contain not less than 80 percent fat"... "All milk and cream used must be pasteurized and all butter used for this purpose shall be made from pasteurized products or pasteurized within the establishment"... "Pumps, pipes, conductors, and fittings used to conduct milk, cream, or mixtures of milk or cream in the manufacture of oleomargarine shall be of sanitary construction, with smooth inner and outer surfaces of noncorrosive material or coated with nickel, tin, or other approved material, readily demountable for cleaning, and shall be kept clean and sanitary."

Oleomargarine is also subject to the Federal Food and Drugs Act. A recent ruling in harmony with M.I.S. regulations is as follows: "Notice is hereby given to packers of oleomargarine made from vegetable fat that, if it contains less than 80 percent fat, it will be regarded as adulterated within the meaning of the Federal Food and Drugs Act". 5/

2/United States Bureau of Internal Revenue. Regulation no.9, rev. April 1936, art. 29 (b) (i); art. 21(b).

3/United States Treasury Department. Treasury decision 1502, May 26, 1909.

4/Regulations governing meat inspection. B.A.I. order 211 revised -

Regulation 18, sec. 5, par. 3 and 4; and amendment 9 to B.A.I. order 211, revised - Regulation 18, sec. 6 par. 14.

5/Food and Drug Administration. Notice to packers of vegetable oleomargarine, approved June 6, 1935.

Prohibition in Federal institutions: Appropriation Acts of the War Department, Veterans' Bureau, and Department of Interior (includes Freedmen's Hospital, Bureau of Indian Affairs, and St. Elizabeths Hospital) generally carry provisos that no part of the money appropriated shall be used for the purchase of oleomargarine or butter substitutes for other than cooking purposes. Oleomargarine for use in Federal institutions is free from tax. 6/

Tariff rates and excise taxes: Under the Tariff Act of 1930, imported oleomargarine pays a duty of 14 cents per pound and the imported vegetable oils ordinarily used in the manufacture of oleomargarine are subject to duties as shown on p. 33.

The raw materials ordinarily imported for crushing are free.

By the Revenue Act of 1934 an excise (or processing) tax of 3 cents per pound is levied on the first domestic processing of coconut, palm, palm-kernel, sesame, and sunflower oils (except that palm oil for use in tin plate manufacture is not subject to the processing tax); coconut oil not from the Philippines or other United States possessions is subject to an additional tax of 2 cents per pound. A compensatory tax imposed by the Revenue Act of 1935, provides for a tax on imported oleomargarine manufactured wholly or in chief value from oils subject to excise taxes, equivalent to the excise tax which would be levied on the oils used if they were imported as oil and processed.

SOME RESULTS OF STATE LEGISLATION ENACTED 1929-35

Oleomargarine production always has been heavily concentrated in Chicago, that city accounting for from 40 to 60 percent of total production. In 1928, Illinois produced 48 percent of the oleomargarine, but Ohio, Kansas, New Jersey, and California were also important producers. In the year ended June 1935, production was reported in 14 States, but 7 States - the 5 listed above with Michigan and Indiana added - produced 94 percent of the oleomargarine. Of these States, only California required license fees from manufacturers and dealers, and even these fees are small. None of them impose excise taxes on the sale of oleomargarine made from domestic materials, and Kansas is the only State of this group imposing a tax on oleomargarine made from imported oils. (p. 28.) In one State, Wisconsin, manufacturer's license fee of \$1,000 per annum seems to have completely eliminated manufacture. The State produced 9,000,000 pounds of oleomargarine in the year ended June 1930; the fee was imposed in 1931, in which year less than 6,000,000 pounds of oleomargarine were produced, and no production has been reported since.

6/ Bureau of Internal Revenue regulations no. 9, revised April 1936, art. 11, p. 4.

Reliable consumption data for States or sections are not available. For earlier records we have the report of the study ^{7/} made in 1918-19 by the Department of Labor and the National War Labor Board. This survey shows per capita consumption of oleomargarine and other butter substitutes in the North Central States as 8.4 pounds, that is, more than twice as large as for the United States as a whole, and more than three times as large as for any other section. The Bureau of Dairy Control of the California Department of Agriculture reported 21,251,622 pounds of oleomargarine sold in California in the year ended June 30, 1928, or $4\frac{1}{2}$ pounds per capita.

In appraising the current situation the ratio of retail dealers to population is considered to be an indication of consumption. Pronounced reduction in the number of retail dealers in a State after the State has imposed excise taxes indicated the effectiveness of such taxes in reducing consumption. The following tabulation showing the number of retail dealers licensed to sell uncolored oleomargarine in 1928 when no excise taxes existed and again in the year ended June 1935 after excise taxes were effective in 17 States is significant.

States grouped according to excise taxes imposed after 1928 and before February 1935	Total number of retail dealers	
	1928	1935
	<u>Thousands</u>	
In 6 States taxing all oleomargarine	:	:
6 to 15 cents per pound	: 17	: 1
In 3 States taxing uncolored oleomargarine	:	:
5 cents per pound	: 9	: 4
In 8 States taxing oleomargarine containing imported materials 10 to 15 cents per pound	: 24	: 21
In 31 States without excise taxes ^{8/}	: 123	: 129
Total	: 173	: 155

From 1928 to 1935 the total number of retail dealers licensed to sell uncolored oleomargarine in the United States decreased about 10 percent, but 26 States showed a total increase of 35 percent and 22 States showed a total decrease of 26 percent.

The largest decrease was in the group of States imposing excise taxes of 6 to 15 cents per pound on all oleomargarine. The number of retailers in this group decreased 96 percent. That is, an excise tax of 10 cents per pound on all oleomargarine seems to be very restrictive or prohibitive depending on other economic conditions and regulations, a 6-cent tax supported by other

^{7/} United States Department of Agriculture, Yearbook 1924, p. 1127.

^{8/} Of those States, seven enacted laws imposing excise taxes between February and June 1935. (p. 28)

stringent legislation is very restrictive and a 15-cent tax seems to be completely prohibitive. For example, North Dakota, South Dakota, and Oklahoma, States having no taxes in 1928, reported in that year large numbers of dealers, whereas in 1935 with a 10-cent tax, these States respectively reported only 1, 91, and 80 retail dealers per million population. In 1928, Tennessee reported 920 retail dealers per million population. In 1935, State excise taxes that were collected in Tennessee 9/ amounted to \$19,119. Calculated on the basis of 10 cents per pound this would average seven one-hundredths of a pound of oleomargarine per capita. Retail dealers numbered 177 per million population in this year. The 15-cents-per-pound tax on all oleomargarine sold in the State of Washington seems to be completely prohibitive as in 1935 no licensed retail dealers were reported. The position of Wisconsin changed from 1,700 dealers per million population in 1928, when no excise tax was levied, to 1 dealer per million population for the year ended June 30, 1934, with \$1,000 annual license tax on manufacturers and 6-cents-per-pound excise tax on all oleomargarine, and to 7 dealers per million population, for the year ended June 30, 1935, with the same tax condition as in 1934. In June 1935, Wisconsin raised the tax on all oleomargarine from 6 cents per pound to 15 cents per pound.

In the three States imposing a tax of 5 cents per pound on uncolored oleomargarine in 1935 but no tax in 1928 the number of retail dealers handling this commodity decreased about 57 percent during the period. The situation in Iowa indicates that a tax of 5 cents per pound on all oleomargarine tends to restrict but does not eliminate sales. In 1928 when there was no tax there were 3,000 dealers per million population, in 1935 with a 5-cent tax there were only about half as many dealers in uncolored, and no dealers in yellow. Also Iowa is the only State showing any appreciable revenue from excise taxes on oleomargarine. Revenue reported for the calendar year 1935 was \$242,277. 10/ At the rate of 5 cents per pound this indicates a sale of 4,645,540 pounds or about $1\frac{1}{2}$ pounds per capita.

Like Iowa, Idaho and Utah tax uncolored oleomargarine 5 cents per pound, but they tax colored goods 10 cents per pound, and the number of retail dealers licensed to handle uncolored goods has been reduced much more than in Iowa. In 1928, each reported about 1,500 dealers per million population, whereas in 1935, Idaho reported 13 and Utah 371 dealers per million.

The group imposing taxes on oleomargarine containing imported ingredients includes five Western States and all the cottonseed-producing States but Mississippi and Oklahoma, and the law of Oklahoma taxes all oleomargarine. In these States there was about an 8-percent decrease in number of dealers between 1928 and 1935. Within the group, five States having the largest number of retail dealers in 1928 decreased the number of retail dealers somewhat, whereas the other States in the group increased the number slightly. Although the number of dealers does not seem to be materially changed by this type of legislation, letters from State officers indicate that a tax of 10 cents per pound on oleomargarine containing foreign ingredients seems practically to eliminate its sale. Fourteen of the fifteen States having such laws prior

9/ Letter dated Mar. 28, 1936, from Commissioner, Tennessee Department of Agriculture.

10/ Letter dated Jan. 27, 1936, from Chief Inspector, Iowa Department of Agriculture.

to June 1935, reported by letter on revenue collected from excise taxes for the calendar year 1935. One said the law was not enforced; two stated that information was not available as tax returns were not separately reported; seven reported that no oleomargarine containing foreign ingredients had been sold; three reported tax collection of \$12 or less for the year 1935, and one reported collection of \$380.

In the group of 31 States imposing no excise taxes prior to February 1935, the total number of retail dealers in uncolored oleomargarine showed a total increase of a little over 4 percent between 1928 and 1935. Within the group 8 States reporting a comparatively large number of retail dealers in 1928 showed a total decrease of about 6,000 retailers, whereas the balance of the group reported a total increase of over 11,000 dealers by 1935.

It is also true that there were more retail dealers in the United States in the year ended June 1935, than in 1934. This may reflect the reaction from the uncertainty following the first wave of taxation.

Now consider the effect of tax legislation on shifts in materials used in oleomargarine manufacture. The first oleomargarine was made largely from oleo oil and this oil continued to be the principal ingredient until 1920. The earliest change was the addition of neutral lard, followed by the addition of some butter.^{11/} Vegetable oils were introduced as early as 1875 as shown by U.S. Patent No. 173,591 granted for an improvement in the process of making artificial butter using "fats from fruits and nuts - peanut, sweet almond and olive oil". United States patents indicate that cottonseed oil may have been used in very limited quantities as early as 1882. It was used in increasing quantities from 1900 to 1915, in the latter year it contributed 30 percent of the fats and oils used. Coconut oil was not used in significant quantities until 1916 and reached its peak in 1933 when it furnished 75 percent of all fats and oils used in oleomargarine manufacture, and in the same year cottonseed oil furnished only 9 percent. Within the period 1933 to June 1935, 14 States passed laws levying excise taxes of 10 to 15 cents on oleomargarine containing foreign ingredients, and the Federal excise tax of 3 cents per pound was placed on coconut oil. In this same period the percentage of cottonseed oil used in oleomargarine increased from 9 to 32 percent and the actual volume increased from 18,000,000 to 100,000,000 pounds, whereas the imported coconut oil percentage decreased from 75 to 56 percent even though the actual quantity increased 24,000,000 pounds.

A more extended discussion should fully analyze the factors affecting the situation in each State separately, but that cannot be undertaken at the present time.

^{11/} Snodgrass, K. Margarine as a butter substitute. Stanford Univ. Food Research Inst. Fats and Oils Studies 4:132. 1930.

HISTORICAL BACKGROUND

Legal cognizance of oleomargarine in the United States covers a period of about 65 years, beginning in 1871 with the patenting of a process for manufacturing a butter answering the purpose of lard, butter, or cream for culinary or other purposes. 12/ The Mege-Mouriez process of making oleomargarine was patented in England in 1869, and in the United States in 1873.

The story may be divided broadly into five periods: (1) 1877-85, a period of first restrictive and then prohibitory measures; (2) 1886-1902, extending from the passage of the Federal Oleomargarine Act to its amendment in 1902, a time of many regulative measures, for prevention of fraud and deception, particularly on the basis of color; (3) 1903-22, a period of relatively little legislation, but marked by enforcement problems, court decisions, and Federal Trade Commission orders; (4) 1923-30, a time of renewed attempts to enact prohibitory laws, resulting in orders, repeals, and injunctions; (5) 1929-35, a period when many proposals were brought forward, Federal acts amended and supplemented and various State taxation measures were enacted, aimed at (a) inter-industry discrimination, and (b) protection of domestic industries. Repeals and legal questions still mark the issues.

(1) The beginnings of State and Federal legislation, 1877-85

The first State laws dealing with oleomargarine for protection of dairymen and to prevent fraud 13/ were enacted in New York and Pennsylvania in 1877, Maryland followed with a law in 1878, and an Act was passed by Congress for the District of Columbia 14/ in 1879.

At this time the attitude in Pennsylvania seems to have been one of encouraging manufacture of oleomargarine but preventing or punishing fraud and deception. Mr. Eastburn Reeder, of Bucks County, and a member of the Pennsylvania Board of Agriculture, reporting on oleomargarine in 1877, said "When Paraf, in 1873, organized in New York City the large company called the 'Oleo-Margarin Manufacturing Company' and gave to the product made the name of oleo-margarin, they were pursuing a fair and legitimate business, to which no one could raise an objection. . . If the manufacturers of oleo-margarin are able to produce . . . an article equal in quality to anything we [butter makers] are able to make . . . then let it command, as it will, an equal price in the market. Even if they, in the future, shall become able to make a product superior to ours, let that bring, as it should, a higher price. What we demand is, (and we deem it a protection to which we are fairly entitled) that they shall not be allowed to sell their goods under our name, and as our product. 15/ It should be remembered that at this time all oleomargarine was colored yellow and closely resembled butter in appearance.

12/ Letters-Patent No. 110,626, dated Jan. 3, 1871. Second ann. rept. of New York State Dairy Commission, 1886, p.327.

13/ Weist, E. The butter industry in the United States. An economic study of butter and oleomargarine. Columbia Univ. Studies in Hist., Econ. and Public Law 69:237. 1916.

14/ United States Department of Agriculture. Rept. of the Statistician, (n.s.) 29:196. 1886.

15/ Pa. State Board of Agriculture. 1st ann. rept. p. 200-201. 1878.

The first oleomargarine laws were ineffective because administrative machinery was not adequate to enforce them. New York State was the first to remedy this defect by establishing in 1884 the office of Dairy Commissioner 16/ whose duty it was to enforce the law. The restrictive laws did not prevent fraud and soon were followed by prohibitive laws in Missouri, New York, Pennsylvania, Maine, Michigan, and Minnesota.

This period also saw the beginning of State license fees. As early as 1882, Mississippi "required payment of a privilege tax of \$50 by every person offering oleomargarine for sale", 17/ and in an Act approved April 6, 1885, Colorado established a license fee of \$1,000 per annum for manufacturers, and \$500 per annum for dealers.18/ According to the Statistician of the Department of Agriculture, reporting on the status of State oleomargarine legislation in May 1886, 24 States in addition to the District of Columbia had enacted oleomargarine legislation. 19/ Of these measures, 17 were regulative, providing penalties for the sale of oleomargarine as butter, while 7 were prohibitory in character, aiming at the complete exclusion of the commodity from within the boundaries of the enacting State.

The Tariff Act of 1883 placed a duty of 4 cents per pound on oleomargarine. This was raised to 6 cents in 1890, reduced to 4 cents in 1894, put back to 6 cents in 1897, reduced to 2-1/2 cents in 1913, and put up to 6 cents again in 1921, to 8 cents in 1922, and to 14 cents in 1930.

(2) The Federal Oleomargarine Act and amendment and State regulative acts, 1886-1902

Just as the idea of completely prohibiting oleomargarine was becoming widespread in the States, the first Federal action was taken and the law known as the Oleomargarine Act was passed August 2, 1886. When signing this act, President Cleveland said: "This upon its face and in its main features is a revenue bill, and was first introduced in the House of Representatives, wherein the Constitution declared that all bills for raising revenue shall originate. I do not feel called upon to interpret the motives of Congress otherwise than by the apparent character of the bill which has been presented to me, and I am convinced that the taxes which it creates cannot possibly destroy the open and legitimate manufacture and sale of the thing upon which it is levied." 20/

This act of 1886 imposed a stamp tax of 2 cents per pound on all oleomargarine, and annual special taxes of \$600, \$480, and \$48 on manufacturers, wholesale dealers and retail dealers, respectively. The Act was attacked in

16/ Weist, E. The butter industry in the United States. An economic study of butter and oleomargarine. Columbia Univ. Studies in Hist., Econ., and Pub. Law. 69:241. 1916.

17/ United States Department of Agriculture. Bureau of Animal Industry Ann. Rept. National and State dairy laws . . . (1897) 14:623. 1898.

18/ United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1890; 184.

19/ United States Department of Agriculture. Rept. of the Statistician, (n.s.) 29:195-209. 1886.

20/ United States Congress. 49th. 1st sess. H. Ex. Doc. 35 (368):1-2. 1885-86.

the case of *In re Kollock*, 165, U.S. 526 (decision Mar. 1, 1897) as containing an unconstitutional delegation of legislative power. The Supreme Court denied the writ and although the statute as a revenue measure was not questioned the Supreme Court in its decision said in part: "The Act before us is on its face an act for levying taxes, and, although it may operate in so doing to prevent deception in the sale of oleomargarine as and for butter, its primary object must be assumed to be the raising of revenue."

The prohibitory principle embodied in many of the State oleomargarine laws was made unconstitutional by the Act of 1886. The fact that the United States Government imposed an internal revenue stamp tax on oleomargarine caused the courts to hold that Congress recognized the product as a lawful article of commerce. The decisions of the United States Supreme Court 21/ in several cases during this period were to the effect that a State might prohibit the manufacture and sale of all oleomargarine within its borders, without violating the Federal Constitution, if such prohibition did not prevent the sale by the importer of original packages introduced in interstate commerce; a State might prohibit the manufacture and sale within its borders of oleomargarine colored in imitation of butter even as against the rights of an importer under the commerce clause; but a State might not prevent the sale by the importer of all oleomargarine in original packages introduced in interstate commerce under a completely prohibitory law. 22/ Laws of States, therefore, prohibiting the admission of oleomargarine into their territory were in conflict with the constitutional interstate commerce clause, and had to be revised, and the form that the revisions took was in general prohibition of manufacture and sale of oleomargarine colored in imitation of butter. The enactments of New Hampshire, August 26, 1885, 23/ Vermont in 1886, Minnesota and West Virginia in 1891 and South Dakota in 1897, 24/ requiring that oleomargarine "shall be colored pink" were affected by the New Hampshire case. In its decision on this case the Supreme Court said "Although under the wording of this statute the importer is permitted to sell oleomargarine freely and to any extent, provided he colors it pink, yet the permission to sell, when accompanied by the imposition of a condition which, if complied with, will effectually prevent any sale, amounts in law to a prohibition."

New Jersey passed in 1886 (supplemented in 1887), what seems to have been the first law forbidding the sale of oleomargarine colored in imitation of natural butter. 24/ After 1893, anti-color laws were common and by 1902 more than half the States had enacted such legislation. 25/

21/ *Powell v. Pa.* (127 U.S. 678) Apr. 9, 1888; *Plumley v. Mass.* (155 U.S. 461) Dec. 10, 1894; *Schollenberger v. Pa.* (171 U.S. 1) May 23, 1898; *Collins v. N.H.* (171 U.S. 30) May 23, 1898.

22/ Snodgrass, K. Margarine as a butter substitute. Stanford Univ. Food Research Inst. Fats and Oils Studies 4: 54. 1930

23/ United States Department of Agriculture. Rept. of the Statistician, (N.S.) 29:196. 1886.

24/ United States Department of Agriculture. Bureau of Animal Industry Ann. Rept. National and State dairy laws . . . (1897) vol. 14. Vt. p. 689, 690; Minn. p. 622; W. Va. p. 697; S. Dak. p. 685; N.J. p. 643, 645. 1898. (For N.J. see also United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1890:186.)

25/ United States Congress. 56th. 2d. sess., S.R. 4(2043):593-599. 1900-01.

Now discrimination in the rate of taxation on colored and uncolored oleomargarine appeared in the Federal Oleomargarine Act amendment of May 9, 1902, when the 1886 stamp tax of 2 cents per pound to be paid by manufacturers on all oleomargarine was changed to 10 cents per pound, on "oleomargarine", and $\frac{1}{4}$ cent per pound on "oleomargarine free from artificial coloration that causes it to look like butter of any shade of yellow."

The rates of the special taxes imposed on dealers by the law of 1886 were also affected by the color problem. The 1902 amendment provided for special taxes of \$48 and \$6 respectively for dealers handling oleomargarine "free from artificial coloration that causes it to look like butter of any shade of yellow", and designated that the rates of \$480 and \$200 already established apply respectively to wholesale and retail dealers in colored oleomargarine. The rate of \$600 annually for manufacturers of all oleomargarine remained unchanged. Thus, this law of 1902 seemed to be for all practical purposes a prohibition on the manufacture and selling of oleomargarine "colored in semblance of butter". This amendment also made oleomargarine transported in interstate commerce subject to the laws of the State of destination.

State license fees found two new advocates during this period. In 1895, Montana imposed a "license fee" of 10 cents per pound on all oleomargarine sold. This "license fee" was reduced to 1 cent in 1901 and gave way to annual license fees in 1925. (pp. 22, 30) Perhaps this was the forerunner of the era of excise taxes started by Utah in 1929. Beginning in 1899, Pennsylvania exacted \$1,000 annually from oleomargarine manufacturers, and \$500 and \$100 respectively from wholesalers and retailers.

(3) Violations, enforcement problems, court decisions, and orders, 1903-22

For 20 years after the Federal Amendment of 1902 there was a decided lull in State laws. Only two States added license fees, (p. 29) therefore this period for the purposes of this review may be passed over with reference only to enforcement and court decisions. Every year for many years the Bureau of Internal Revenue, charged with the Federal Oleomargarine Law enforcement, reported a large number of violations.

Difficulty arose over the wording "artificially colored", manufacturers holding, for example, that color due to the presence of naturally yellow oils such as palm oil was not "artificial". Not until the Federal Act of March 4, 1931, placed the higher special taxes and the higher stamp tax on "oleomargarine which is yellow in color" and defined "yellow in color", was this problem settled.

The Bureau of Internal Revenue Report 26/ for the year ended June 30, 1911, tells of almost 2,000 violations of the law and says: "Attention was called in the reports of 1909 and 1910 to the defects in the oleomargarine statutes as construed in the United States courts and to the deplorable

26/ United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1911:17-19.

situation occasioned thereby! Continued efforts to enforce this law serve but to disclose the situation more clearly. The present law imposes two rates of taxation, one 40 times as great as the other, on oleomargarine, the rate being determined by whether or not the product is artificially colored, which has proven a very poor method of determining the tax liability . . . For a time after the passage of this law the oleomargarine manufactured was, on account of the nature of the ingredients used, white, or a very light color, and the yellow color was obtained by using artificial coloring agents, such as are generally used in the manufacture of dairy butter. . .

"During the past 2 years, however, a considerable change has been brought about in the manufacture of certain grades of oleomargarine which has introduced even more difficulty in the administration of the law, and that is the discovery of the method of extracting various vegetable oils, such as peanut oil, soya-bean oil, soy-bean oil, mustard oil, etc., which carry naturally a high degree of yellow coloring and which are sufficiently neutral and nutritive to be used as one of the actual ingredients in the manufacture of oleomargarine. . .

"It is strongly urged that there should be a complete revision of the oleomargarine statutes; that the double rate of taxation should be abolished and that a flat rate be adopted in lieu thereof. . .

"Had the tax on oleomargarine been 2 cents a pound during the past fiscal year instead of a nominal rate of 10 cents and an actual rate of .25 a pound, the revenues would have been increased by \$1,793,100.79, a large sum expended in attempting to enforce the present statutes would have been saved, and the corruption of great numbers of American citizens, as well as a fraud on the public to an extent not generally dreamed of, would have been prevented. . ."

In its report for 1919, the Bureau of Internal Revenue ^{27/} cites over 4,000 violations of the law, the most flagrant of them being the coloration of uncolored oleomargarine for sale as butter. For several years following no more mention of violations is made. However, the 1935 ^{27/} report states that extensive violations of the oleomargarine act were uncovered, and it was found that the violators had effected a wide distribution of their product to the detriment of the legitimate industry.

Within this period (1903-22), two famous Supreme Court decisions opened the way for later legislation discriminating between competitive industries, by promulgating the doctrine that if on the surface acts are taxation measures the court will not examine the motive or the resulting effect. In the McCray case ^{28/} involving the 1902 amendment to the Federal Oleomargarine Act, the Supreme Court decision upholding the legislation as a valid exercise of the taxing power of the Federal Government said that the discretion of Congress could not be controlled or limited by the court because the latter might deem the incidence of the tax oppressive or even destructive.

^{27/} United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1919: 59; 1935:18.

^{28/} McCray v. U.S., 195 U.S. 27. Decision rendered in 1904.

In a decision on the drug act 29/ in 1919, the Supreme Court again upheld the right of Congress to impose taxes, if the act seems on its face to be a revenue measure. The decision says - "Subject to such limitations of geographic uniformity, Congress may select the subject of taxation and may exercise the power conferred at its discretion. . .the fact that other motives may impel the exercise of the Federal taxing power does not authorize the courts to inquire into the subject. If the legislation enacted has some reasonable relation to the exercise of the taxing authority conferred by the Constitution it cannot be invalidated because of the supposed motives which induced it. . ." In the child labor tax case 30/ in 1922 the court decision invalidating the act included a statement that "the purpose of regulation may be observed from the face of the act". This latter decision has been interpreted as not reversing the position taken by the court in the oleomargarine case.

(4) Revival and defeat of prohibitory State legislation; Federal Trade Commission orders, 1923-30

During this period prohibitory clauses were again introduced into State legislation. In Oregon, a law was passed in 1923, which provided that no dairy products could be used in butter substitutes manufactured from vegetable oils. The law was rejected, however, by referendum vote on November 4, 1924, 157,324 votes being cast against it to 91,597 for it. The law was looked upon as a practical prohibition of vegetable oleomargarine. (See p. 24 for later attempts to regulate or tax oleomargarine production in the State of Oregon.) A similar law was passed in Washington in the same year and it too was defeated by referendum vote.

In spite of the popular defeat of such laws in Washington and Oregon the Wisconsin State Legislature passed a law in 1925 prohibiting the manufacture or sale of butter substitutes in which milk or cream was combined with other oils. No distinction was made between vegetable and animal oils. In August of that year, the Dairy and Food Commissioner of the State was enjoined from carrying out the provisions of the law; and on January 18, 1926, the act was declared unconstitutional by the Circuit Court and the Commissioner permanently enjoined from enforcing it. The Dairy and Food Commissioner then appealed to the Supreme Court of the State, which upheld the lower court. . .in its view that the terms of the act amounted to a prohibition of the manufacture and sale of oleomargarine. In this connection it stated: "There is not a scintilla of evidence that there has ever been upon the market in commercial form a substance known as oleomargarine which did not combine milk or milk fats with some oleaginous substance." It concluded, therefore, that "there can be no doubt that Chapter 279 had for its sole purpose the prohibiting of the manufacture and sale within the State of Wisconsin of oleomargarine as that term is defined by the laws of the United States as it is ordinarily used and understood in commercial transactions." 31/

29/ U.S. v. Doremus, 249 U.S. 86. Decision rendered in 1919.

30/ Bailey v. Drexel Furniture Co., 259 U.S. 20. Decision rendered in 1922.

31/ Snodgrass, K. Margarine as a butter substitute. Stanford Univ. Food Research Inst. Fats and Oils Studies 4:96, 97. 1930.

In 1925, California passed a dairy law providing for a special manufacturing tax of 2 cents per pound on oleomargarine. This law was rejected by popular referendum vote, November 2, 1926. (See p. 26 and table 4, p. 28, for enactment of 1935.)

"Cease and desist" orders

As to fraud and deception during this period, one writer 32/ has stated "fraud in the sale of oleomargarine as butter appears to be insignificant and advertising methods not more deceptive than in the case of other products". The Wisconsin Supreme Court found in 1926 that oleomargarine had not been sold as butter in Wisconsin for many years, that it was advertised and sold under its own merits, and that there was no fraud or deception practiced in its sale in Wisconsin. But even so the Federal Trade Commission from time to time proceeded against various oleomargarine manufacturers for alleged misleading advertising. 33/ The said manufacturers agreed to desist from the use of such words and phrases as: "churned especially for lovers of good butter"; "made in the milky way"; "fresh milk from Select-Dairies, which is weighed, tested for richness, and then pastuerized and then ripened (just as is done in all modern creameries) at an even moderate temperature. The choicest creamery butter is made in this way"; "Country Style Rolls"; "Creamery Richness - Can't be Beat"; "Fresh Churned Daily"; etc.

On the other side of the picture it is true also that the Federal Trade Commission found cause to issue orders that respondents should "cease and desist" from making false and misleading statements about oleomargarine and from unfair methods of competition. In 1925 the Commission found 34/ that in 1921 "at an officially called meeting. . . a Cooperative Creamery Association. . . a resolution was voted on and unanimously adopted calling on the dealers and meat markets of [the] County to discontinue the sale of oleomargarine, and calling on the citizens thereof 'to eliminate butter substitutes. . . inasmuch as they. . . are injurious to public health'". The Commission, from the above and other findings, concluded that the "acts and practices of the said respondents. . . are unfair methods of competition" and ordered the respondents to "cease and desist from combining. . . to hinder, obstruct or prevent the sale of oleomargarine".

In 1931 the Federal Trade Commission issued "Complaints" against false and misleading statements about oleomargarine. Orders to cease and desist were issued against one organization on March 28, 1932, and against another, April 25, 1932, as follows: 35/

-
- 32/ Snodgrass, K. Margarine as a butter substitute. Stanford Univ. Food Research Inst. Fats and Oils Studies 4:106. 1930.
- 33/ United States Federal Trade Commission. Oleomargarine Stipulations: No. 186, April 1928; No. 293, November 1928; No. 435, November 1930.
- 34/ United States Federal Trade Commission. Federal Trade Commission decisions, v. 9, docket no. 1080, pp. 112, 114-115, par. 5. 1925.
- 35/ Ibid. v. 16, docket no. 1988, pp. 101-104; docket no. 1984, pp. 142-145. 1932.

"It is now ordered that the respondent: . .a corporation, and its agents, representatives, servants and employees, in the aid or furtherance of the production, sale and distribution of butter in interstate commerce cease and desist from:

"Representing, publishing, republishing or distributing to its members, or directly or indirectly to retail dealers, produce dealers or the consuming public (a) any false and defamatory statements, directly or indirectly purporting to be descriptive of the manufacture, or sale, or composition of oleomargarine; (b) any matter or information stating directly or by implication that oleomargarine in the ordinary and usual process of being manufactured, or cocoanut oil contained in such oleomargarine, is foul, filthy, or unsanitary, or otherwise unfit for human consumption; (c) any direct statement or matter containing the implication that the sale of oleomargarine is a 'rich man's graft', or any false information concerning the cost of the materials used in the manufacture of oleomargarine."

(5) Control of oleomargarine industry by State taxation beginning 1929

Even if Montana's 1895 "license fee" of 10 cents per pound on all oleomargarine sold, later reduced to 1 cent, and changed to an annual license fee in 1925, and California's 2-cents-a-pound-manufacturing tax imposed in 1925 and repealed a year later, are considered forerunners of this type of regulation, the enactment of a 10-cent excise-tax law by Utah in 1929 may be looked upon as the beginning of the present unfinished era of regulation and control of the oleomargarine industry by State taxation. In 1931 10 States followed Utah's lead; 1 enacted a State law in 1932, 3 each in 1933 and 1934, and 9 in 1935. A revival of State license fees in this period is attested by 13 new State laws levying license fees ranging from \$1.00 to \$1,000 per year. (p. 29)

No attempt is made to analyze in detail the multiple proposals that have failed of enactment during this period. These number well into the hundreds and in general have the same objectives as the measures which have been enacted.

The State and Federal measures proposed and enacted may be summarized as -

(a) Measures involving inter-industry discrimination, that is looking toward protecting the butter industry against competition from any other fats and oils whether domestic or foreign and (b) those aimed at protecting domestic food fats and oils (whether butter or oleomargarine) from competition with foreign oils.

Measures designed to protect the butter industry are defended by such statements as the following: "If and when the United States again becomes a butter exporting country, its interest is a world butter market properly freed from the competition of vegetable oil products. . .Oleomargarine competition may be met and the consumption of butter increased. . .by taking every step which is legally and morally defensible to reduce the consumption of oleomargarine and other vegetable oil products.

"The effort to reduce the consumption of oleomargarine and vegetable oil products is a matter of our own self protection and the perpetuation of our [dairy] industry. This end warrants the most vigorous measures. It warrants legal action to prevent coloring. It warrants throwing every possible safeguard around the manufacture and sale of oleomargarine to prevent fraud and substitution and false representation in its sale. It warrants State taxation of the product, on the ground that traffic in a product which is dangerous to a necessary domestic industry and of questionable health value to such an extent that it requires policing and regulating should contribute to the public treasury what is necessary to pay for such regulation and policing. . ." 36/ In line with this theory the Wisconsin tax of 6 cents per pound on all kinds of oleomargarine imposed in 1932 was raised to 15 cents in June, 1935, and the upper house of the Wisconsin legislature recently adopted a joint resolution requesting the Government to "take over and close all plants manufacturing butter and lard substitutes as an immediate means of stabilizing the dairy industry." 37/ One of the most drastic Federal measures of this sort that has been proposed was a bill (similar to the Canadian law) introduced into the House of Representatives (H.R. 6612) January 9, 1934, to prohibit the manufacture and sale of oleomargarine. This bill was referred to the Committee on Agriculture, but was not reported out of committee. The same bill was again introduced January 7, 1935 (H.R. 3000) with the same result. The bill was revised to place a manufacturers' tax of 10 cents per pound, in addition to all taxes now levied, on all oleomargarine and was again introduced in January 1936 (H.R. 9672).

The second point of view, that is granting oleomargarine a place along with butter but protecting all domestic food fats, is set forth by a State Governor in his message vetoing a bill imposing a tax of 5 cents per pound on all oleomargarine, when he said ". . . No good or permanent relief can come from the efforts of producers of any given commodity in any locality or section to impose trade barriers on, or to outlaw the competing products of producers in other localities or sections of the country". He adds further that if all States were to enact laws taxing all oleomargarine containing foreign oils or fats and exempting from such taxation oleomargarine made from domestic materials "the importation of cheap foreign oils, the real cause of low and unprofitable prices for our domestic products, would be restricted to a minimum and our markets made 100 percent available for fats and oils domestically produced. This would go a long way toward removing the play for advantages between worthy and worth while industries, as it would bring a measure of permanent relief to all of them". 38/ Many State and Federal bills embodying these and similar ideas have been proposed. Some propose Federal legislation levying a tax of 10 cents per pound on oleomargarine containing any imported fat or oil. This would be in line with the several State laws now taxing oleomargarine containing fats and oils other than specified domestic.

36/ Dairy Produce, 38:23, Sept. 8, 1931. 'Relation of dairy industry and vegetable oil products. Summary of a paper read at the World's Dairy Congress in Copenhagen, 1931, by A.M. Loomis of the National Dairy Union.

37/ The National Provisioner, 90:42, Jan. 20, 1934. Proposed margarine laws.

38/ Ibid. 90:36, Jan. 27, 1934. Vetoes Mississippi oleo tax.

The interest of the consumer in a cheap wholesome food is reflected in a few proposals. Some, looking toward freeing the industry from Federal restraint, would repeal the wholesale and retail dealers' license fees imposed for permission to sell oleomargarine. Others add provisions for a high standard of fat content, purity, and wholesomeness, and propose more stringent regulations to prevent fraud and deception.

Opposition to the control program: Out of the welter of proposals submitted to Congress and to State Legislatures in the past 5 years for regulating oleomargarine, about two and one-half dozen were finally selected for enactment, but these have not been without opposition that has been expressed by repealing laws, by rejecting them on referendum vote, through invalidation by court decisions, or by allowing them to remain inactive.

In Oregon, oleomargarine tax laws were twice enacted and twice rejected by referendum vote. On March 6, 1931, a 10-cents-per-pound tax was placed on all kinds of oleomargarine. The act was submitted to the legal electors of the State by petition filed May 19, 1931. It was rejected November 8, 1932, with 131,273 votes of approval and 200,496 votes for rejection. Again on March 15, 1933, a 4-cent tax was placed on all kinds of oleomargarine, and rejected by referendum July 21, 1933. (See p. 20 for enactment of 1933.)

In Colorado, on May 18, 1931, a law was enacted placing a stamp tax of 15 cents per pound "on all oleomargarine except that which contains 45 percent or more of animal fats with a 2-percent tolerance, not including fish oils or fish fats. . ." By petition of referendum, June 26, 1931, the act was referred to the people of the State of Colorado, and disapproved November 8, 1932 by 217,671 "no" votes to 134,313 "yes" votes. (See Table 4, p. 28 for enactment of 1933.)

Michigan passed a law May 4, 1931 requiring \$100 annual license fees from manufacturers and wholesalers and \$5 from retailers, but the act was repealed by referendum vote November 8, 1932.

Court decisions on the Kentucky and Washington laws are of peculiar interest in relation to earlier decisions. (p. 27) Kentucky enacted a law February 19, 1932, placing a tax of 10 cents per pound on all kinds of oleomargarine. "The validity of the excise tax levied by Kentucky ^{39/} was early called into question by the margarine producers. It was assailed ^{40/} as being in violation of both the State Constitution and the Federal Constitution. The court refrained from passing upon the validity of the law under the 14th Amendment and confined itself to the question of the prohibitory nature of the tax; that is, it passed upon the question as to whether or not the act was in violation of the Constitution of Kentucky, which, when

^{39/} Sullivan, R. The new margarine taxes. *The Tax Magazine*, 12:600-602, 630, November 1935.

^{40/} Field Packing Co. v. Glenn, 5 Fed. supp. 4 (Apr. 20, 1933).

read with the Bill of Rights, has been interpreted to forbid taxation high enough to prohibit legitimate business. The court admitted that the evidence presented by the defendant indicated that the margarine industry would have been, in ordinary times, able to absorb the tax and still sell its product in competition with butter, but the sharp price reductions as a result of the depression narrowed or eliminated the price differential between the two products, thereby destroying the sale of margarine in the State. The court said in part: 'Under improved economic conditions it is conceivable that the tax complained of here would not be prohibitive. We are satisfied from the record that it is prohibitive now'. The United States Supreme Court affirmed the decision December 4, 1933, with the following modification: "In order to prevent the possibility that the decree may operate injuriously in the future, the decree will be modified by providing that the members of the State Tax Commission, or that Commission, may apply at any time to the court below, by bill or otherwise, as they may be advised, for a further order or decree, in case it shall appear that the statute has been sustained by the State court as valid under the State constitution, or that by reason of a change of circumstance, the statute may be regarded as imposing a valid tax." 41/

In March 1931, the State of Washington imposed a tax of 15 cents per pound on all kinds of oleomargarine sold within the State but not applying to oleomargarine manufactured within the State and exported from the State. This tax was attacked as being in violation of the interstate commerce clause and as being prohibitory and confiscatory in its operations. 42/ The court specifically answered the several charges and laid stress upon the point that the power to tax was broad and inclusive and that, in general, the only redress from excessive taxation lay in appeal to the electorate and not to the courts.

Upon appeal to the United States Supreme Court the case was affirmed, in a decision rendered April 2, 1934. 43/ This court speaks of "Nucoa" as a form of oleomargarine and states that "Nucoa is a nutritious and pure article of food, with a well established place in the dietary." The decision also says that ". . . a tax designed to be expended for a public purpose does not cease to be one levied for that purpose because it has the effect of imposing a burden upon one class of business enterprises in such a way as to benefit another class. . . [Taxes] do not lose their character as taxes because of the incidental motive. . . The statute here under review is in form plainly a taxing act, with nothing in its terms to suggest that it was intended to be anything else. . . From the beginning of our government, the courts have sustained taxes although imposed with the collateral intent of effecting ulterior ends which, considered apart, were beyond the constitutional power of the lawmakers to realize by legislation directly addressed to their accomplishment".

41/ Supreme Court Decision, 290 U.S. 177. Dec. 4, 1933.

42/ A. Magnano Co. v. Dunbar, 2 Fed. Supp. 414, 417.

43/ A. Magnano Co. v. Hamilton, 292 U.S. 40. Apr. 2, 1934.

The States - Oklahoma, New Mexico, and California - show on their statute books, laws that are not active at present. In Oklahoma an enactment of March 11, 1931, placing a tax of 10 cents per pound on all kinds of oleomargarine, became a law without the signature of the Governor. The question of the repeal of the law was submitted to the people (Referendum Petition No. 55), at the general election November 8, 1932. There were 265,890 votes to repeal the act and 342,998 votes against repeal; the law was therefore kept on the statute books. (State questions submitted to the people under the initiative and referendum since Statehood. State question No. 164.)

The Act requires manufacturers and venders to operate under license and provides for administration by a State Dairy Commissioner, but makes no provision for enforcement thereof, either by the Dairy Commissioner, or by the Tax Commission. The Tax Commission states 44/ that "funds have not been appropriated for the purchase of stamps" and that "the law is generally disregarded". However, the law is apparently effective in reducing sales as the number of retail dealers dropped from about 3,500 in 1928 to about 200 in 1935. If many dealers undertook to sell oleomargarine a way of providing stamps and collecting taxes might be found.

The law of New Mexico, enacted February 25, 1935, placed a tax of 10 cents per pound on oleomargarine made of materials other than specified domestic fats and oils. (Table 4, p. 28.) The law has apparently been inoperative since enactment, as indicated in a letter 45/ from the State Attorney General as follows: ". . . The Act is so indefinite as a whole that we seriously doubt if it could be enforced with any degree of success. . . It cannot legally be enforced at this time as no enforcement body is mentioned in the title. . . Even though we should hold that the act is enforceable, at the same time we would be compelled to hold that the State Tax Commissioner has no money available either by this appropriation or from [other] sources whereby such enforcement could be had. . ."

The California law, imposing a tax of 10 cents per pound on oleomargarine containing other than specified domestic materials, enacted to be effective April 1935, has been delayed from going into effect by referendum petition being filed with the Secretary of State. It will be voted on by the people at the next general election, November 1936, or at any special election which may be called by the Governor prior to the regular election. Ten years earlier, California rejected a 2-cent tax. (p. 21)

44/ Letter dated Feb. 7, 1936, from Oklahoma Tax Commission.

45/ Letter dated June 5, 1935, from New Mexico State Attorney General to Chief Tax Commissioner of New Mexico.

APPENDIX

Table 3.- State excise taxes on oleomargarine made from either domestic or imported materials

State	Date effective	Tax per pound	Cents	Specifications
Idaho ...	Mar. 1931	5	On uncolored oleomargarine	
	:	10	On yellow oleomargarine	
Iowa	Mar. "	5	On all kinds of oleomargarine	
Ky. <u>1</u> /...	Feb. 1932	"	" " " "	
N. Dak. ..	Mar. 1931	10	" " " "	
Okla. <u>2</u> /.	Mar. "	10	" " " "	
S. Dak. ..	Feb. "	10	" " " "	
Tenn. ...	Apr. "	10	" " " "	
Utah <u>3</u> /..	May 1929	5	On oleomargarine not artificially colored	
	:	10	On oleomargarine artificially colored	
Wash. <u>4</u> /.	Mar. 1931	15	On all kinds of oleomargarine	
Wis. <u>5</u> /..	June 1935	15	" " " "	
	:	:	:	

- 1/ The Kentucky law was invalidated by a court decision Apr. 20, 1932, which decision was affirmed by the United States Supreme Court, Dec. 4, 1933. (See also pp. 24-25.)
- 2/ In Oklahoma funds have not been appropriated for the purchase of stamps. (See also p. 26.)
- 3/ An act passed Feb. 24 and effective Feb. 25, 1930, and an act passed Aug. 1 and effective Aug. 5, 1933, each made some changes in the wording but both retained the stamp tax rates set forth in the Act of 1929.
- 4/ The 15-cent tax was assailed. The court decision upheld the validity of the law, and upon appeal to the United States Supreme Court the decision was affirmed, Apr. 2, 1934. (See also pp. 24-25.)
- 5/ Wisconsin's tax of 6 cents per pound imposed Jan. 28, 1932, was superseded by the act of June 29, 1935.

Table 4.- State excise taxes on oleomargarine containing other than specified domestic materials

State	Date	Tax	Specifications
	effective	per 1/ pound:	
		: Cents:	
Ala.	June 1935	10	On oleomargarine sold, offered or exposed for sale, or exchanged, in the State, containing any fat or oil other than any of the following: oleo oil, oleo stock, oleostearine, neutral lard, corn oil, cottonseed oil, peanut oil, soybean oil, or milk fat
Ark.	Feb. "	10	Like Ala.
Calif. <u>2/</u>	Pending	10	Like Ala. with soybean oil omitted from and sheep fat added to exceptions
Colo.	Apr. 1933	10	Like Ala. with soybean oil omitted from exceptions
Fla.	June 1935	10	Like Ala. with beef and sheep fats added to exceptions
Ga.	Mar. "	10	Like Ala. with pecan oil added to exceptions
Kans.	June 1933	10	Like Ala. with soybean oil omitted from exceptions
La.	Sept. 1934	12	Like Ala.
Maine ...	Mar. 1935	10	" "
Minn. ...	July 1933	10	On "each pound of oleomargarine containing less than 65 percent of animal fats and/or oils and upon each pound of oleomargarine containing any fats or oils other than animal fat and/or oil, milk fat, peanut, cottonseed or corn oil, sold, offered or exposed for sale or given or delivered to a consumer"
Nebr. ...	May 1931	15	On all "imitation butter", provided "any oleomargarine or imitation butter containing more than 50 percent of animal fats or animal oils produced in the United States and containing no imported oils or fats. . . shall not be included in the term imitation butter for tax purposes" prior to or at time of sale and delivery
N. Mex. <u>3/</u>	Feb. 1935	10	Like Ala. with beef and sheep fats added to exceptions
N.C.	May "	10	Like Ala.
S.C.	Apr. 1934	10	" "
Tex. <u>4/</u> ..	Dec. "	10	" "
Wyo.	June 1931	10	On "vegetable oleomargarine. . . containing. . . in excess of 1 percentum of water and less than 20 percentum of any animal fat. . . sold or exposed for sale or distributed in the State"

1/ Date effective may coincide with date of enactment or may be later.2/ The California law enacted to be effective April 1935, is held in abeyance by referendum petition. It will be voted on at the next general election November 1936, or at any special election which may be called by the Governor prior to regular election. (See also p. 26.)3/ This law is not being enforced. (See also p. 26.)4/ Passed Sept. 21, to be effective 90 days after adjournment, Sept. 25, 1934.

Table 5.- Annual State license fees on "occupations"

State	Date of law	Manufac-	Whole-	Retail	Restau-	Boarding
		turers	salers		rants and hotels	houses
		Dollars	Dollars	Dollars	Dollars	Dollars
Calif.	1923	100	50	5	2	2
Colo. <u>1/</u>	1931	25	25			
Conn.	"	100	50	6	3	
Fla.	1913		20			
Idaho	1929		200	50		
Ky. <u>2/</u>	1932	5	3	2	2 - 3	1
La. <u>3/</u>	"					
Mass. <u>4/</u>	1886					
Minn.	1931	1	1	1		
Miss. <u>5/</u>	1930		100	10		
Mont. <u>6/</u>	1925		1,000	400		
Nebr.	1919	100	25	1		
N. C.	1931	1,000	100			
N. Dak.	"	10	5	2		
Okla. <u>7/</u>	"	10	10	5	2	
Pa.	1899	1,000	500	100	50	10
Tenn.	1931	5	3	2	2 - 3	1
Utah	1929		5	5		
Vt.	1931		25	25		
Wis. <u>8/</u>	"	1,000	500	25		5
	:	:				

Compiled from State laws.

State license fees are due annually or quarterly on calendar or fiscal year basis. Some States provide for pro-rating tax if business is not conducted for full year.

Michigan's law, providing for \$100 manufacturers' and wholesale licenses and \$5 retail license, was enacted May 4, 1931, and repealed by referendum Nov. 8, 1932.

Oregon's act of Mar. 6, 1931, requiring annual license fees of \$5 each for wholesalers, retailers, and restaurants, was rejected by referendum vote Nov. 8, 1932.

See next page for footnotes..

Table 5.- Annual State license fees on "occupations" - Contd

- 1/ An Act of Apr. 6, 1885, providing for license fee of \$1,000 for all manufacturers and \$500 for dealers was repealed by Act of Apr. 12, 1893, which levied annual tax of \$250 on manufacturers, \$125 on wholesalers, and \$25 on retailers. The Act of 1893 was repealed by Act of Apr. 1, 1895. An Act of May 18, 1931, levied annual tax of \$25 on manufacturers and wholesalers. This was repealed Nov. 8, 1932, and reenacted in 1933.
- 2/ The court decisions of 1933, invalidating the excise tax in Kentucky, did not invalidate the license fees.
- 3/ The Louisiana law provides that every wholesale dealer in oleomargarine, butter, cheese, ice cream, and other dairy products be taxed $1\frac{1}{4}$ percent of the gross receipts. Bill states that tax was levied to defray expenses of tick eradication work. The law is effective through 1938.
- 4/ "Conveyors of margarine in a vehicle for purpose of sale must take out licenses in the towns in which it is being sold. . . and shall pay fifty cents for each registering. . ." in Massachusetts.
- 5/ An Act of Mar. 9, 1882, required payment of a privilege tax of \$50 by every person offering oleomargarine for sale in Mississippi. Later repealed. An Act effective May 1920, provided for a privilege tax of \$100 for wholesalers and \$5 for retailers. The "Privilege Tax Law" of 1932 increased the retail fee to \$10 which rate was maintained in the "Privilege Tax Law" of 1934.
- 6/ The first "license fee" imposed in Montana was 10 cents per pound on all oleomargarine or butterine sold, according to the law enacted Mar. 16, 1895. The "license fee" was reduced to 1 cent per pound in 1901. In 1925, fees of \$250 per quarter for wholesalers and \$75 per quarter for retailers were imposed. The Act of 1931 increased retailers fees to \$100 per quarter and repealed all earlier provisions in conflict with this law.
- 7/ Apparently fees are not being collected, according to a letter from the Oklahoma Tax Commission, dated Feb. 7, 1936. The Bureau of Internal Revenue reports no manufacturers, very few wholesalers, and fewer than 200 retailers.
- 8/ Baker and confectioner's license \$5 and "license to consume margarine not purchased from a retail dealer, \$1." This law was published Dec. 30, 1931, to be effective Jan. 1, 1932, and reduced the rates of the Act of May 8, 1931 (to be effective 120 days after publication), for retailers, restaurants, hotels, and boarding houses.

General State regulations

There are many State regulations in addition to taxes and license fees. In some States the wording of the laws is not clear. There is a difference of opinion on interpretation in some cases. The following summary expresses concensus of opinion in so far as it could be determined.

(a) Laws prohibit the sale of yellow oleomargarine in the following States:

Ala.	Fla.	Mass.	N.H.	Ohio	S. Dak.
Calif.	Ill.	Mich.	N.J.	Okla.	Vt.
Colo.	Iowa	Minn.	N.Y.	Oreg.	Wash.
Conn.	Maine	1/Mo.	N.C.	Pa.	Wis.
Del.	Md.	Mont.	N. Dak.	S.C.	Wyo.

In West Virginia color is not prohibited by law but it is prohibited by the regulation of the Public Health Council. The legality of this prohibition has not been tested.

(b) The use of oleomargarine in charitable, penal, or other institutions receiving assistance from the State is prohibited in:

Calif.	Iowa	Minn.	N.Y.	Pa.
2/Conn.	Kans.	Mont.	N. Dak.	Tenn.
Idaho	Ky.	5/Nebr.	Ohio	Wash.
3/Ill.	4/Mich.	6/N.H.	Okla.	Wis.

(c) Arkansas and Missouri require that hotels and restaurants serving oleomargarine shall label the containing dishes and many States require the posting of conspicuous signs stating that oleomargarine is served.

(d) Indiana, Nevada, Rhode Island, and Virginia levy no taxes but have general laws defining oleomargarine, governing packaging or marketing, notifying patrons, etc.

(e) Arizona has no specific oleomargarine law.

(f) The majority of State laws agree in requiring that oleomargarine be marketed in a manner that will inform the purchaser that the substance is not butter, often stipulating that the word "oleomargarine" shall appear in letters of a specific size in black ink on a white ground, and many require that all dairy terms or pictures be omitted from packages in which oleomargarine is packed.

- 1/ Color was prohibited (R.S. 1919, par. 12005). This may have been repealed by sec. 12008. Lawyers disagree on interpretation.
- 2/ Except some prisons and county jails.
- 3/ May use only 25 percent oleomargarine or butter substitutes.
- 4/ In State institutions other than penal.
- 5/ Prohibited in charitable and other specified institutions.
- 6/ Colored oleomargarine shall not be used.

Table 6.- Federal special taxes and stamp taxes on oleomargarine

		Imposed by Act of		
		1886	: 1902	: 1931
		Dollars	Dollars	Dollars
1. Special taxes on "occupations", annual	a. Manufacturers of oleomargarine	600	Unchanged	Unchanged
	b. Wholesale dealers			
	Oleomargarine	480	-	-
	Yellow, i.e. "oleomargarine"	-	480	Unchanged
	Uncolored, i.e. "oleomargarine on which tax of $\frac{1}{4}$ cent per pound is imposed"	-	200	Unchanged
	c. Retail dealers			
	Oleomargarine	48	-	-
	Yellow, i.e. "oleomargarine"	-	48	Unchanged
	Uncolored, i.e. "oleomargarine on which tax of $\frac{1}{4}$ cent per pound is imposed"	-	6	Unchanged
2. Stamp taxes on oleomargarine		Cents	Cents	Cents
		per lb.	per lb.	per lb.
a. Paid by manufacturer 1/	Oleomargarine	2	-	-
	Yellow, i.e. "oleomargarine"	-	10	-
	Yellow, i.e. "oleomargarine which is yellow in color"	-	-	10
	Uncolored, i.e. "oleomargarine free from artificial coloration that causes it to look like butter of any shade of yellow"	-	$\frac{1}{4}$	-
	Uncolored, i.e. "oleomargarine"	-	-	$\frac{1}{4}$
b. Paid by importer or owner 2/	Imported oleomargarine	15	Unchanged	Unchanged

1/ Each manufacturer is under bond. Oleomargarine withdrawn from the manufacturer's bonded warehouse for export (Sec. 16, Act of 1886, also Internal Revenue regulations 73, chap. 1, art. B) or for use of the United States in Federal prisons or other Federal institutions is not taxed. The amount on which Federal tax is paid is reported by each manufacturer as "withdrawn, tax paid". The law makes no provision for the allowance of drawback on exportation of tax-paid oleomargarine.

2/ Imported oleomargarine that has not left customs custody can be re-exported without payment of the 15-cent Internal Revenue tax but there is no provision of law extending the benefit of drawback of Internal Revenue tax on reexport or export after processing of imported oleomargarine on which the tax has been paid and which has left customs custody.

Table 7.- Tariff rates 1922 and 1930, and excise taxes 1934 on oleomargarine and ingredients used in manufacture

Commodity	Rate per pound or ad valorem			
	1922 Tariff Act.		1930 Tariff Act.	1934 Revenue Act.
	Duty	Duty	Excise tax on first domestic processing	
Oleomargarine	8¢	14¢	<u>1/</u>	-
Coconut oil from Philippines or any other possession of the U.S. <u>2/</u>	Free	Free		3¢
other	2¢	2¢		5¢
Corn oil	<u>3/20%</u> ad valorem	20% ad valorem		-
Cottonseed oil	3¢	3¢		-
Palm oil	Free	Free	<u>4/</u>	3¢
Palm-kernel oil	Free	:5/	1¢	3¢
Peanut oil	4¢		4¢	-
Sesame oil	Free	:5/	3¢	3¢
Soybean oil	2½¢	:5½¢ but not less: than 45% ad val.		-
Sunflower oil <u>5/</u>	<u>3/20%</u> ad valorem	20% ad valorem		3¢

(See also p. 16.)

1/ On imported oleomargarine manufactured wholly or in chief value from oils subject to a processing tax a compensatory tax is levied equivalent to the processing tax that would have been levied had the ingredients been imported as oils. Revenue Act of 1935, sec. 502.

In addition to the duty there is a stamp tax of 15 cents per pound on imported oleomargarine. Also see p. 32 for additional manufacturers tax on domestic goods.

2/ "Other possessions" include Alaska, Hawaii, Puerto Rico, Virgin Islands, American Samoa, Guam, and other minor places.

3/ Not specifically mentioned in Act but probably under Paragraph 53.

4/ Does not apply to palm oil used in the tin plate industry.

5/ Free if rendered unfit for food.

Stamp taxes and excise taxes are in addition to duty.

Products entering continental United States from possessions of the United States are free of duty, except that "following the inauguration of the Government of the Commonwealth of the Philippine Islands, Nov. 15, 1935, and pending complete independence (July 4, 1946), any coconut oil imported into the United States from the Philippines in excess of 200,000 long tons shall be subject to the same rate of duty as if imported from any other country."

"First domestic processing" means the first use in the United States of the oil or oils in the manufacture of production of an article intended for sale, and in this case "United States" means the States, the Territories of Alaska and Hawaii, and the District of Columbia (Regulation no. 48, Bureau of Internal Revenue, and sec. 1111 Revenue Act of 1932).

Reference Citations

References are divided into three sections, as follows:

1. Citations to State laws on oleomargarine excise taxes, alphabetical, by States.

The list of citations to excise or stamp tax laws is believed to be reasonably complete. A few citations to other oleomargarine laws have been included but no effort has been made to complete the list of additions.

2. Citations to Federal legislation and rulings on oleomargarine and ingredients.
3. Abstracts, summaries, and surveys of oleomargarine legislation, chronologically arranged.

A bibliography purporting to cover, with any degree of completeness, material touching on oleomargarine legislation would include hundreds of entries. The brief list supplied brings together 15 of the best general abstracts, summaries, and surveys covering the period 1877-1935.

1. Citations to State laws on oleomargarine excise taxes

Alabama - 10¢ excise tax, enacted June 1935. New laws, p. 118, H.B. #329.

Arkansas - 10¢ excise tax, enacted February 1935. Act #56, sec. 3, p. 128.

Requiring dishes to be labeled. Digest of statutes, 1921, chap. 69, p. 1312, #4829.

California - 10¢ excise tax, enacted April 1935. chap. 51, bill #578. Delayed from going into effect by referendum petition to be voted on November 1936.

License fees and color prohibited. Statutes of 1923, chap. 392.

2 cents-per-pound-special-manufacturers tax on oleomargarine. Deering's Gen. Laws, supp. 1925-27, act 1945, sec. 12, p. 1032. Rejected by referendum vote, Nov. 2, 1926.

- Colorado - 15¢ excise tax, enacted May 18, 1931. chap. 127, sec. 2, p. 622-623.
- Repeal of excise tax law of 1931. Laws of 1933, rejected laws, chap. 142, p. 745.
- 10¢ excise tax, enacted Apr. 14, 1933, chap. 141, p. 741, sec. 2.
- License fees - April 1885, S.B. 103, sec. 2, p. 282.
- Repeal of provisions of 1885 and enactment of laws establishing reduced license fees - April 1893, chap. 125, sec. 2, p. 351.
- Repeal of law of 1893 - April 1895, chap. 19, sec. 16, p. 61.
- License fees - May 1931, chap. 127, H.B. 10, sec. 3, p. 623.
- Repeal of law of 1931 - November 1932, chap. 142, p. 745.
- License fees - April 1933, chap. 141, H.B. 337, sec. 3, p. 742.
- Florida - 10¢ excise tax, enacted June 8, 1935, vol. 1, chap. 17095, S.B. 1038, #324, p. 714.
- License fees - chap. 6421, sec. 6 of Acts of 1913.
- Georgia - 10¢ excise tax, enacted Mar. 21, 1935. pt. 1, title II, #208, sec. 1, p. 81-82.
- Idaho - 5 and 10¢ excise tax, enacted Mar. 7, 1931. chap. 93, sec. 2, p. 158.
- License fees - 1929, H.B. 126.
- Iowa - 5¢ excise tax, enacted Mar. 23, 1931. chap. 150, p. 423.
- Kansas - 10¢ excise tax, enacted Feb. 23, 1933, effective June 25, 1933. chap. 321, S.B. #156, p. 549.
- Kentucky - 10¢ tax, enacted Feb. 19, 1932. chap. 158, H.B. 111, p. 718-722, sec. 2 and 8a.
- Law of 1932 invalidated by decision of District Court, W.D. Ky., Apr. 20, 1933 and by Supreme Court decision (290 U.S. 177) Dec. 4, 1933.
- License fees - February 1932, chap. 158, H.B. 111, p. 718-722, sec. 5 and 6.
- Louisiana - 12¢ excise tax, enacted July 13, 1934, effective Sept. 13, 1934. Act #178, H.B. #68, p. 561.
- Tax of 1 $\frac{1}{2}$ percent of gross receipts enacted July 7, 1932. Sec. 1, p. 118, Act #17, H.B. #58. Called Tick Eradication Law (also taxes butter, cheese, ice cream, and other milk products).
- Amended and reenacted July 12, 1934, Act #33, H.B. 159, p. 196-197.
- Maine - 10¢ excise tax, enacted Mar. 16, 1935, chap. 54, sec. 1, p. 241.
- Massachusetts - License fees - 1886, 317, par. 5 (see vol. 3, chap. 94, par. 52-53 of Annotated Laws of Massachusetts, published in 1933).

Minnesota - 10¢ excise tax, enacted Apr. 8, 1933, effective July 1, 1933.
chap. 175, H.F. #733, p. 211.
License fees - 1931, chap. 344.

Montana - 10¢ license tax, enacted Mar. 16, 1895. pt. 3, title X, chap. XIV, sec. 4064.
1¢ license fee, amended Mar. 4, 1901. H.B. #80, p. 143-145.
License fees - approved March 1925, effective July 1925. chap. 188, sec. 1, p. 363.
License fees - March 1931, chap. 87, p. 165-166.

Nebraska - 15¢ tax, enacted May 1, 1931. chap. 131, S.F. 117, p. 366.
License fees - April 1919, chap. 190, S.F. #2, title III, art. X, sec. 4, p. 506-507.

New Mexico - 10¢ excise tax, enacted Feb. 25, 1935. chap. 110, H.B. 155, sec. 2, p. 240.

North Carolina - 10¢ excise tax, enacted May 7, 1935. chap. 328, H.B. 683, sec. 1, p. 395.

North Dakota - 10¢ excise tax, enacted Mar. 10, 1931. chap. 211, H.B. 96, p. 365.

Oklahoma - 10¢ stamp tax, enacted Mar. 11, 1931. chap. 24, art. 4, H.B. #68, p. 44.

The question of the repeal of the 10-cent stamp tax law of Mar. 11, 1931, was submitted to the people (Referendum Petition #55), at the general election Nov. 8, 1932. There were 265,890 votes to repeal the Act and 342,998 votes against repeal; the law was therefore kept on the statute books. (State questions submitted to the people under the initiative and referendum since Statehood. State Question No. 164.)

Color prohibited and license fees - March 1931, Session laws, chap. 24, art. 4, H.B. #68, sec. 4 and 5, p. 44.

Oregon - 10¢ excise tax, enacted Mar. 6, 1931. chap. 286, p. 507, sec. 2. The Act of Mar. 6, 1931, was submitted to the legal electors of the State for their approval or rejection by petition filed May 19, 1931. The Act was rejected at the general election Nov. 8, 1932; there were 131,273 votes of approval and 200,496 votes for rejection. Oregon Laws, Special and Regular Sessions [published 1933]. Acts of the 36th Legislative Assembly voted upon by referendum.

4¢ excise tax, enacted Mar. 15, 1933. chap. 442, p. 831, sec. 2. Repeal of excise tax law of 1933, by referendum July 21, 1933.

Law providing that no dairy products could be used in butter substitutes manufactured from vegetable oils. General laws, 1923, chap. 168, p. 241. Rejected by referendum vote, Nov. 4, 1924.

Color prohibited - February 1931, chap. 43, p. 48, sec. 41-324.

Pennsylvania - License tax laws of Pennsylvania, 1899, p. 241.

South Carolina - 10¢ excise tax, approved pr. 7, 1934. Act 860 (1016), p. 1469.

South Dakota - 10¢ excise tax, enacted Feb. 25, 1931. chap. 258, H.B. 74, sec. 1, p. 319.

Color prohibited - March 1897, chap. 65, H.B. 61, sec. 2, p. 183.

Tennessee - 10¢ excise tax, enacted Mar. 21, 1931, effective Apr. 21, 1931. chap. 19, sec. 2, 10, p. 40, 45.

License fees - April 1931, chap. 19, sec. 2, 10, p. 40, 45.

Texas - 10¢ excise tax, enacted Sept. 21, 1934, effective 90 days after adjournment, adjourned Sept. 25, 1934. 3rd Session, H.B. 32, chap. 6, p. 9, sec. 2.

Utah - 5 and 10¢ stamp tax, approved Mar. 25, 1929, effective May 14, 1929. chap. 91 of 1929 laws. H.B. #88.

Amended (i.e. reenacted with slight changes included), Aug. 1, 1933, effective Aug. 5, 1933. 1933 laws, 2nd Special Session, chap. 17, p. 30, S.B. #19.

License fees - approved March 1929, effective May 1929, chap. 91, H.B. #88, p. 171.

Washington - 15¢ excise tax, approved by Governor Mar. 9, 1931. chap. 23 (S.B. 79, p. 77).

Law providing that no dairy products could be used in butter substitutes manufactured from vegetable oils. Laws of Washington, 1923, chap. 22, p. 48.

Defeated by referendum vote.

Wisconsin - 6¢ stamp tax, enacted Jan. 27, 1932. chap. 17, laws of 1932, Special Session, S.B. #39, p. 54.

15¢ excise tax, enacted June 28, 1935, effective June 29, 1935. chap. 210, p. 324, laws of 1935, S.B. #105, p. 324.

Law prohibiting the manufacture or sale of butter substitutes in which milk or cream was combined with other oils. Laws of Wisconsin, 1925, chap. 279, p. 355.

Declared unconstitutional by the Circuit Court in 1926.

License fees - May 1931, chap. 96, sec. 3, p. 217.

To amend law of 1931 - license fees changed. Special session, 1931, effective January 1932. chap. 3, p. 9, no. 13a.

Wyoming - 10¢ sales tax, enacted June 1, 1931, chap. 137, H.B. #157, Session laws 1931, sec. 1, 3, p. 792.

2. Citations to Federal legislation and rulings on oleomargarine and ingredients

Oleomargarine Act of Aug. 2, 1886 -

An Act defining butter, [defining oleomargarine and] also imposing a 2-cent-per-pound tax upon and regulating by special taxes and otherwise the manufacture, sale, importation, and exportation of oleomargarine. (U.S. Statutes at large, 49th Cong., 1885-87, vol. 24, p. 209-213, chap. 840, Aug. 2, 1886.)

Act of Oct. 1, 1890 -

To amend Act of 1886. States that "special taxes" are due upon entering business and annually on the first day of July thereafter. (U.S. Statutes at large, 51st Cong., 1889-90, vol. 26, p. 624, sec. 63, Oct. 1, 1890.)

Act of May 9, 1902 -

To amend Act of 1886. By differentiating between colored and uncolored oleomargarine and placing the $\frac{1}{4}$ -cent-per-pound tax on "oleomargarine free from artificial coloration that causes it to look like butter of any shade of yellow", and 10 cents per pound on other, changing the special taxes, making oleomargarine subject to the laws of the State into which it is transported, etc. (U.S. Statutes at large, 57th Cong., 1901-3, vol. 32, pt. 1, p. 193-197, chap. 784, May 9, 1902, Public no. 110.)

Act of Oct. 1, 1918 - (A rider attached to an Act covering other matters.)

To amend sec. 6 of Act of 1886. By regulation of packaging, etc. (U.S. Statutes at large, 65th Cong., 1917-19, vol. 40, pt. 1, p. 1008, chap. 178, Oct. 1, 1918, Public no. 219.)

Act of July 10, 1930 -

To amend Sec. 2 of Act of 1886, as amended. By redefining oleomargarine. (U.S. Statutes at large, 71st Cong., 1929-31, vol. 46, pt. 1, p. 1022, chap. 882, July 10, 1930, Public no. 540.)

Act of Mar. 4, 1931 -

To amend sec. 8 of Act of 1886, as amended. Placing the higher tax on "oleomargarine which is yellow in color" and defining "yellow in color". (U.S. Statutes at large, 71st Cong., 1929-31, vol. 46, pt. 1, p. 1549-1550, chap. 520, Mar. 41, 1931, Public no. 876.)

Act of Feb. 24, 1933 -

To amend sec. 6 of Act of 1886, as amended. Authorizing the packing of oleomargarine . . . in tin and other suitable packages. (U.S. Statutes at large, 72nd Cong., 1931-33, vol. 47, pt. 1, p. 902-903, chap. 116, Feb. 24, 1933, Public No. 368.)

Regulations relating to taxes on oleomargarine -

Bureau of Internal Revenue regulations no. 9, rev. April 1936

Tariff Acts -

1883, schedule g; 1890, par. 266; 1894, par. 194; 1897, par. 236; 1909, par. 245; 1913, par. 195; Emergency Act of 1921; 1922, par. 709; 1930, par. 709.

Revenue Acts -

1934 excise tax on first domestic processing of certain fats and oils. Sec 602, 602 $\frac{1}{2}$. 73rd Cong. H.R. 7835.

1935 compensatory tax on oleomargarine, manufactured wholly or in chief value from oils subject to the excise tax on first domestic processing. Sec. 402. 75th Cong. H.R. 8974.

Regulations relating to processing tax on certain oils under sec. 602 $\frac{1}{2}$ of the Revenue Act of 1934 -

Bureau of Internal Revenue, regulations no. 48, 1934.

The Meat Inspection Act -

Included in "An Act making appropriations for the Department of Agriculture . . ." (34 Stat. 674) approved June 30, 1906. Supplementary legislation (34 Stat. 1260) approved Mar. 4, 1907; (38 Stat. 114, 152, 159) approved Oct. 3, 1913; (41 Stat. 241) approved July 24, 1919. Administered by the Bureau of Animal Industry, United States Department of Agriculture.

Regulations governing Meat Inspection -

Bureau of Animal Industry order 211, revised 1922; and amendment no. 9, 1935.

Federal Food and Drug Act -

An Act, "For preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," approved June 30, 1906 (34 Stat. 768), as amended by the Act approved Aug. 23, 1912 (37 Stat. 416), by the Act approved Mar. 3, 1913 (37 Stat. 732), by the Act approved Mar. 4, 1913 (37 Stat. 736), by the Act approved July 24, 1919 (41 Stat. 271), by the Act approved Jan. 18, 1927 (44 Stat. 1003), by the Act approved July 8, 1930 (H.R. 730).

Food and Drug Administration -

Regulations for the enforcement of the Food and Drug Act. S.A.A. F.D. no. 1, 10th revision, November 1930.

Food and Drug Administration -

Notice to packers of vegetable oleomargarine. Approved June 6, 1935.

3. Abstracts, summaries, and surveys of legislation chronologically arranged.

1886. United States Department of Agriculture. Report of the Statistician, (n.s.) 29:195-211. 1886.

Shows a summary of State legislation relating to oleomargarine divided into regulative and prohibitory laws. Also a summary of foreign legislation and regulations relating to oleomargarine.

1887. Bannard, H.C. The oleomargarine law; a study of congressional politics. Political Science Quarterly. 2:545-557, December 1887.

In discussing the Oleomargarine Law of 1886, he points out that the bill was favored by groups with three differing points of view: (1) those who wanted to suppress a food they believed to be "foul in its nature and deleterious to the public health, or perhaps a positive poison", (2) those who wanted to prohibit the sale of any article that competed with butter, and (3) those who wanted to legislate against the fraudulent sale of oleomargarine as genuine butter.

- United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1887:CXXVI-CLII.

Discusses the Oleomargarine Act of 1886 as a protective measure, as a prohibitive measure, and as a sanitary measure.

1890. United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1890:184-188.

Summary of State and territorial laws relating to oleomargarine in force June 17, 1890..

1891. United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1891:189-192.

Supplementary report on summary of State and territorial laws up to June 30, 1891.

1894. United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1894:179-180.

Analysis of conditions in the oleomargarine industry and amendments suggested for the oleomargarine statutes.

1895. Schewinitz, E.A. de. Butter substitutes. U.S. Dept. Agr. Yearbook. 1895:445-452.

Discusses manufacture, ingredients, wholesomeness, and fraudulent sale.

1897. United States Department of Agriculture. Bureau of Animal Industry Ann. Rept. National and State dairy laws. . . (1897) 14:532-708. 1898.
- Tabulation of principal points, 532-533.
 Abstracts of State dairy laws, stating briefly the principal features, 534-555.
 State dairy laws quoted in full, 556-703.
 Federal dairy laws of Canada, 703-708.
1900. United States Department of Agriculture. Bureau of Animal Industry Bull. 26. National and State dairy laws . . . 1900.
- Tabulation of principal points, 6-7.
 Brief abstracts of the principal features of national and State and Canadian dairy laws enforced through 1900, 9-36.
 Full text of dairy laws enacted since the 14th annual report of the dairy industry in 1898, and a few "which were inadvertently omitted" from that report, 37-110.
1909. United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1909:86.
- Urges amendments providing for a flat rate per pound excise tax and a single rate of special taxes.
1911. United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1911:17-18.
- Discusses the evasion of the law and makes recommendations for its amendment with a review of the situation and description of the existing corruption and fraud and the need of a complete revision of the oleomargarine statutes.
1914. United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1914:21-22.
- Discusses fraud in connection with trying to enforce collection of tax on colored oleomargarine.
1916. Weist, E. The butter industry in the United States. An economic study of butter and oleomargarine. Columbia Univ. Studies in Hist., Econ. and Pub. Law 69:210-264. 1916.
- Adulteration and oleomargarine, 210-233.
 Oleomargarine legislation, 234-264.
1930. Snodgrass, K. Margarine as a butter substitute. 333 p., illus. Stanford University, Calif. (Leland Stanford Junior Univ. Food Research Ins.) Fats and Oils Studies 4. 1930. The one adequate work covering the field prior to 1930.
1934. Weber, G.M.. Legislative weapons in inter-industry competition - oils and fats. Harvard Business Review 13:72-81, October 1934.

INDEX

	<u>Page</u>
Advertising	21
Alabama	8, 28, 31, 34
Alaska	33
American Samoa	33
Animal fats	8, 20, 24
Arkansas	8, 9, 28, 31, 34
Arizona	1, 31
 Bailey v. Drexel case	20
Beef fat	8, 28
Bonded warehouses	32
Butter	9, 14, 17, 18, 19, 21, 22
Bucks County	15
 California	8, 28, 29, 31, 34
— 2-cent tax	21, 22
— consumption	12
— 10-cent tax law delayed	26, 28
— production	11
Canadian law	23
"Cease and desist" orders	21-22
Child labor case	20
Cleveland, President	16
Coconut oil	11, 14, 33
Collins v. New Hampshire case	17
Color	8, 9, 17, 18, 19
— without paying tax	10
Colorado	8, 16, 28, 29, 30, 31, 35
— 15-cent tax law rejected	24
Compensatory tax. <u>See</u> Taxes.	
Connecticut	8, 29, 31
Consumption	1, 12, 13, 23
Corn oil	8, 28, 33
Cottonseed oil	8, 14, 28, 33
Court decisions	17-20, 24-25, 27
— Bailey v. Drexel case	20
— Child labor case	20
— Collins v. New Hampshire case	17
— Doremus case	20
— Field Packing Company v. Glenn case	17
— Kollock case	17
— Magnano Company v. Dunbar case	25
— McCray v. United States case	19
— Plumley v. Massachusetts case	17
— Powell v. Pennsylvania case	17
— Schollenberger v. Pennsylvania case	17

INDEX

	<u>Page</u>
Dealers, retail	1, 2, 3-7, 8, 16
increase	14
number reduced	12, 13
per million population	3-4, 12, 13
Dealers, wholesale	3-7, 8, 16
Definition of oleomargarine	IV, 9
Delaware	31
District of Columbia	16
first laws	15
Doremus case	20
Drawback	32
Duty. <u>See</u> Tariff.	
Enforcement	18-20
Excise taxes. <u>See</u> Taxes.	
 Fat content	10
Fats and oils-	
animal fats	8, 20, 24
beef fat	8, 28
coconut oil	11, 14, 33
corn oil	8, 28, 33
cottonseed oil	8, 14, 28, 33
milk fat	8, 20
mustard oil	19
neutral lard	8, 14
oleo oil	8, 14, 28
oleostearine	8, 28
oleo stock	8, 28
olive oil	14
palm oil	11, 33
palm-kernel oil	11, 33
peanut oil	8, 14, 19, 28, 33
pecan oil	8, 28
sesame oil	11, 33
sheep fat	8, 28
soybean oil	8, 19, 33
sweet almond oil	14
sunflower oil	11, 33
vegetable fats and oils	8, 10, 11, 14, 20, 22, 23
Federal Trade Commission orders	15, 20-22
Field Packing Company v. Glenn case	24
Florida	8, 28, 29, 31, 35
Food and Drug Act	10, 20, 39
Fraud	1, 9, 15, 16, 21
Freedmen's Hospital	11

INDEX

	<u>Page</u>
Georgia	8, 28, 35
Guam	33
Hawaii	33
Health	21, 22, 23
Historical background	15-26
Idaho	1, 2, 8, 13, 27, 29, 31, 35
Illinois	11, 31
Imported materials	8, 11, 12, 13, 14, 23, 26, 32
Indiana	1, 2, 11, 31
Indian Affairs, Bureau of	11
Inoperative laws	24-25, 26, 27, 28, 30
Institutions	8, 10, 11, 31, 32
Inter-industry discrimination	22
Interior Department	11
Iowa	2, 13, 27, 31, 35
Kansas	8, 11, 28, 31, 35
Kentucky	2, 8, 27, 29, 30, 31, 35
— Supreme Court decisions	24-25, 27
Kollock case	17
Labeling	9, 10, 31
Legislation-	
— Federal Acts	15, 32, 38
— first	15
— proposed	22, 23
— State, citations	34-37
License fees. <u>See</u> Taxes.	
Louisiana	8, 28, 29, 30, 35
Magnano Company v. Dunbar case	25
Maine	8, 16, 28, 31, 35
Manufacture, first	15
Manufacturers	3-8, 32
Maryland	31
— first laws	15
Massachusetts	29, 30, 31, 35
Materials used, shift	14
McCray v. United States case	19
Meat Inspection regulations	10, 39
Mège-Mouriez process patented	15
Michigan	11, 16, 31
— license-fee law rejected	24, 29

INDEX

	<u>Page</u>
Milk fat	8, 20
Minnesota	8, 16, 17, 28, 29, 31, 36
Mississippi	8, 13, 16, 23, 29, 30
Missouri	9, 16, 31
Montana	1, 8, 18, 22, 29, 30, 31, 36
Mustard oil	19
Nebraska	8, 28, 29, 31, 36
Neutral lard	8, 14
Nevada	31
New Hampshire	17, 31
New Jersey	11, 17, 31
New Mexico	8, 28, 36
— 10-cent law inactive	26, 28
New York	31
— first laws	15, 16
Non-contiguous territory	33
North Carolina	8, 28, 29, 31, 36
North Dakota	1, 2, 8, 13, 27, 29, 31, 36
Notifying patrons	9
Ohio	11, 31
Oklahoma	2, 8, 13, 27, 29, 30, 31, 36
— 10-cent law inactive	26, 27
Oleo oil	8, 14, 28
Oleostearine	8, 28
Oleo stock'	8, 28
Oleomargarine act and amendments	2, 9, 10, 15
	16, 18, 38
Olive oil	14
Oregon	20, 31, 36
— 10-cent and 4-cent laws rejected	24, 29
Palm oil	11, 33
Palm-kernel oil	11, 33
Paraf	15
Patenting	15
Peanut oil	8, 14, 19, 28, 33
Pecan oil	8, 28
Pennsylvania	8, 16, 18, 29, 31, 37
Per capita consumption	12, 13
Philippines	11, 33
Pink oleomargarine	17
Plumley v. Massachusetts case	17
Powell v. Pennsylvania case	17
Privilege tax. <u>See Taxes.</u>	
Processing tax. <u>See Taxes.</u>	

INDEX

	<u>Page</u>
Production	1, 3-7, 11
regulations	10
Prohibition of use	11, 31
Prohibitory laws	11, 15, 16, 17, 18, 20, 23, 24
Puerto Rico	33
Referendum vote -	
California	21, 26, 28
Colorado	24
Michigan	24, 29
Oklahoma	26
Oregon	20, 24, 29
Washington	20
Regulations	10, 11, 31, 38, 39
Revenue	5-7, 16, 17, 19
State	13, 14
Revenue Act	11, 33
Rhode Island	31
St. Elizabeths Hospital	11
Schollenberger v. Pennsylvania case	17
Sesame oil	11, 33
Sheep fat	8, 28
South Carolina	8, 28, 31, 37
South Dakota	2, 13, 17, 27, 31, 37
Soybean oil	8, 19, 33
Special taxes. <u>See</u> Taxes.	
Stamp taxes. <u>See</u> Taxes.	
Sweet almond oil	14
Sunflower oil	11, 33
Supreme Court. <u>See</u> Court decisions.	
Tax free	11, 32
Taxes -	
Federal:	
Special tax	1, 5-7, 9, 16, 18
Table	32
Stamp tax	1, 2, 5-7, 9, 16, 17, 18
Table	32
Compensatory tax	2, 11, 33, 39
Excise tax on first domestic processing	11, 14, 33, 39
Manufacturers' tax. <u>See also</u> Special tax.	23
State:	
Excise tax	1, 2, 8, 11-14 18, 22, 23, 24, 25
Tables	27-28
Law citations	34-37
License fees.	1, 2, 8, 11, 13, 16, 18, 22, 24
Tables	29-30
Manufacturing tax	21
Privilege tax	16, 30

INDEX

	<u>Page</u>
Tariff	11, 16, 33, 39
Tennessee	2, 8, 13, 27, 29, 31, 37
Texas	8, 28, 27
Tick eradication	8, 30
Utah	2, 8, 13, 22, 27, 29, 37
Vegetable fats and oils	8, 10, 11, 14, 20, 22, 23
Vermont	8, 17, 29, 31
Veterans' Bureau	11
Violations	18-20
Virgin Islands	33
Virginia	31
War Department	11
Washington	1, 2, 13, 20, 27, 31, 37
— Supreme Court decisions	24, 25, 27
West Virginia	1, 2, 17, 31
Wisconsin	1, 2, 8, 11, 13, 20, 21 23, 27, 29, 30, 31, 37
Wyoming	8, 28, 31, 37
Yellow in color	2, 8, 9, 18, 19

